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# Presidential Documents

**Title 3—**

**The President**

**Executive Order 13730 of May 20, 2016**

## 2016 Amendments to the Manual for Courts-Martial, United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), and in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order 12473 of April 13, 1984, as amended, it is hereby ordered as follows:

**Section 1.** Part II, Part III, and Part IV of the Manual for Courts-Martial, United States, are amended as described in the Annex attached and made a part of this order.

**Sec. 2.** These amendments shall take effect as of the date of this order, subject to the following:

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

THE WHITE HOUSE,
*May 20, 2016.*

# ANNEX

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) The title of R.C.M. 104(b)(1) is amended to read as follows:

"(1) *Evaluation of member, defense counsel, or special victims' counsel.*"

(b) R.C.M. 104(b)(1)(B) is amended to read as follows:

"(B) Give a less favorable rating or evaluation of any defense counsel or special victims' counsel because of the zeal with which such counsel represented any client. As used in this rule, "special victims' counsel" are judge advocates who, in accordance with 10 U.S.C. 1044e, are designated as Special Victims' Counsel."

(c) R.C.M. 305(h)(2)(B)(iii)(a) is amended to read as follows:

"(a) The prisoner will not appear at trial, pretrial hearing, preliminary hearing, or investigation, or"

(d) R.C.M. 305(i)(2)(A)(iv) is amended to read as follows::

"(iv) *Victim's right to be reasonably heard.* A victim of an alleged offense committed by the prisoner has the right to reasonable, accurate, and timely notice of the 7-day review; the right to confer with the representative of the command and counsel for the government, if any; and the right to be reasonably heard during the review. However, the hearing may not be unduly delayed for this purpose. The right to be heard under this rule includes the right to be heard through counsel and the right to be reasonably protected from the prisoner during the 7-day review. The victim of an alleged offense shall be notified of these rights in accordance with regulations of the Secretary concerned."

(e) A new R.C.M. 306(e) is inserted immediately after R.C.M. 306(d) and reads as follows:

"(e) *Sex-related offenses.*

(1) For purposes of this subsection, a "sex-related offense" means any allegation of a violation of Article 120, 120a, 120b, 120c, or 125, or any attempt thereof under Article 80, UCMJ.

(2) Under such regulations as the Secretary concerned may prescribe, for alleged sex-related offenses committed in the United States, the victim of the sex-related offense shall be provided an opportunity to express views as to whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense. The commander, and if charges are preferred, the convening authority, shall consider such views as to the victim's preference for jurisdiction, if available, prior to making an initial disposition decision. For purposes of this rule, "victim" is defined as an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an alleged sex-related offense as defined in subparagraph (1) of this rule.

(3) Under such regulations as the Secretary concerned may prescribe, if the victim of an alleged sex-related offense expresses a preference for prosecution of the offense in a civilian court, the commander, and if charges are preferred, the convening authority, shall ensure that the civilian authority with jurisdiction over the offense is notified of the victim's preference for civilian prosecution. If the commander, and if charges are preferred, the convening authority learns of any decision by the civilian authority to prosecute or not prosecute the offense in civilian court, the convening authority shall ensure the victim is notified."

(f) R.C.M. 403(b)(5) is amended to read as follows:

"(5) Unless otherwise prescribed by the Secretary concerned, direct a preliminary hearing under R.C.M. 405, and, if appropriate, forward the report of preliminary hearing with the charges to a superior commander for disposition."

(g) R.C.M. 405(i)(2)(A) is amended to read as follows:

"(2) *Notice to and presence of the victim(s).*

(A) The victim(s) of an offense under the UCMJ has the right to reasonable, accurate, and timely notice of a preliminary hearing relating to the alleged offense, the right to be reasonably protected from the accused, and the reasonable right to confer with counsel for the government during the preliminary hearing. For the purposes of this rule, a "victim" is a person who is alleged to have suffered a direct physical, emotional, or pecuniary harm as a result of the matters set forth in a charge or specification under consideration and is named in one of the specifications under consideration."

(h) R.C.M. 407(a)(5) is amended to read as follows:

"(5) Unless otherwise prescribed by the Secretary concerned, direct a preliminary hearing under R.C.M. 405, after which additional action under this rule may be taken;"

(i) R.C.M. 502(d)(4)(B) is amended to read as follows:

"(B) An investigating or preliminary hearing officer;"

(j) RCM 502(e)(2)(C) is amended to read as follows:

"(C) An investigating or preliminary hearing officer;"

(k) R.C.M. 506(b)(2) is amended by replacing "investigation" with "preliminary hearing."

(l) R.C.M 601(d)(2)(A) is amended to read as follows:

"(A) There has been substantial compliance with the preliminary hearing requirements of R.C.M. 405; and"

(m) R.C.M. 705(c)(2)(A) is amended to read as follows:

"(A) A promise to enter into a stipulation of fact concerning offenses to which a plea of guilty or a confessional stipulation will be entered;"

(n) R.C.M. 705(d)(3) is amended to read as follows::

"(3) *Acceptance.*

(A) *In general.* The convening authority may either accept or reject an offer of the accused to enter into a pretrial agreement or may propose by counteroffer any terms or conditions not prohibited by law or public policy. The decision whether to accept or reject an offer is within the sole discretion of the convening authority. When the convening authority has accepted a pretrial agreement, the agreement shall be signed by the convening authority or by a person, such as the staff judge advocate or trial counsel, who has been authorized by the convening authority to sign.

(B) *Victim consultation.* Whenever practicable, prior to the convening authority accepting a pretrial agreement the victim shall be provided an opportunity to express views concerning the pretrial agreement terms and conditions in accordance with regulations prescribed by the Secretary concerned. The convening authority shall consider any such views provided prior to accepting a pretrial agreement. For purposes of this rule, a "victim" is an individual who is alleged to have suffered direct physical, emotional, or pecuniary harm as a result of the matters set forth in a charge or specification under consideration and is named in one of the specifications under consideration."

(o) R.C.M. 806(b)(2) is renumbered as R.C.M. 806(b)(3).

(p) A new R.C.M. 806(b)(2) is inserted immediately after R.C.M. 806(b)(1) and reads as follows:

"(2) *Right of victim to notice.* A victim of an alleged offense committed by the accused has the right to reasonable, accurate, and timely notice of court-martial proceedings relating to the offense."

(q) R.C.M. 806(b)(3) is renumbered as R.C.M. 806(b)(4).

(r) R.C.M. 806(b)(4) is renumbered as R.C.M. 806(b)(5).

(s) A new R.C.M. 806(b)(6) is inserted immediately after R.C.M. 806(b)(5) and reads as follows:

"(6) *Right of victim to be reasonably protected from the accused.* A victim of an alleged offense committed by the accused has the right to be reasonably protected from the accused."

(t) R.C.M. 902(b)(2) is amended to read as follows:

"(2) Where the military judge has acted as counsel, preliminary hearing officer, investigating officer, legal officer, staff judge advocate, or convening authority as to any offense charged or in the same case generally."

(u) R.C.M. 905(b)(1) is amended to read as follows:

"(1) Defenses or objections based on defects (other than jurisdictional defects) in the preferral, forwarding, or referral of charges, or in the preliminary hearing;"

(v) R.C.M. 907(b)(1) is amended to read as follows:

"(1) *Nonwaivable grounds*. A charge or specification shall be dismissed at any stage of the proceedings if the court-martial lacks jurisdiction to try the accused for the offense."

(w) R.C.M. 907(b)(1)(A)-(B) is deleted.

(x) A new R.C.M. 907(b)(2)(E) is inserted immediately after R.C.M. 907(b)(2)(D)(iv) and reads as follows:

"(E) The specification fails to state an offense."

(y) R.C.M. 912(a)(1)(K) is amended to read as follows:

"(K) Whether the member has acted as accuser, counsel, preliminary hearing officer, investigating officer, convening authority, or legal officer or staff judge advocate for the convening authority in the case, or has forwarded the charges with a recommendation as to disposition."

(z) R.C.M. 912(f)(1)(F) is amended to read as follows:

"(F) Has been an investigating or preliminary hearing officer as to any offense charged;"

(aa) R.C.M. 1002 is amended to read as follows:

"(a) *Generally*. Subject to limitations in this Manual, the sentence to be adjudged is a matter within the discretion of the court-martial; except when a mandatory minimum sentence is prescribed by the code, a court-martial may adjudge any punishment authorized in this Manual, including the maximum punishment or any lesser punishment, or may adjudge a sentence of no punishment.

(b) *Unitary Sentencing*. Sentencing by a court-martial is unitary. The court-martial will adjudge a single sentence for all the offenses of which the accused was found guilty. A court-martial may not impose separate sentences for each finding of guilty, but may impose only a single, unitary sentence covering all of the guilty findings in their entirety."

(bb) R.C.M. 1103(b)(2)(B)(i) is amended to read as follows:

"(i) The sentence adjudged includes confinement for twelve months or more or any punishment that may not be adjudged by a special court-martial; or"

(cc) The Note currently located immediately following the title of R.C.M. 1107 and prior to R.C.M. 1107(a) is amended to read as follows:

"[Note: Subsections (b)-(f) of R.C.M. 1107 apply to offenses committed on or after 24 June 2014; however, if at least one offense resulting in a finding of guilty in a case occurred prior to 24 June 2014, or includes a date range where the earliest date in the range for that offense is before 24 June 2014, then the prior version of R.C.M. 1107 applies to all offenses in the case, except that mandatory minimum sentences under Article 56(b) and applicable rules under R.C.M. 1107(d)(1)(D)–(E) still apply.]"

(dd) R.C.M. 1107(b)(5) is amended to delete the sentence, "Nothing in this subsection shall prohibit the convening authority from disapproving the findings of guilty and sentence."

(ee) R.C.M. 1107(c) is amended to read as follows:

"(c) *Action on findings*. Action on the findings is not required. However, the convening authority may take action subject to the following limitations:

(1) Where a court-martial includes a finding of guilty for an offense listed in subparagraph (c)(1)(A) of this rule, the convening authority may not take the actions listed in subparagraph (c)(1)(B) of this rule:

(A) *Offenses*

(i) Article 120(a) or (b), Article 120b, or Article 125;

(ii) Offenses for which the maximum sentence of confinement that may be adjudged exceeds two years without regard to the jurisdictional limits of the court; or

(iii) Offenses where the adjudged sentence for the case includes dismissal, dishonorable discharge, bad-conduct discharge, or confinement for more than six months.

(B) *Prohibited actions*

(i) Dismiss a charge or specification by setting aside a finding of guilty thereto; or

(ii) Change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

(2) The convening authority may direct a rehearing in accordance with subsection (e) of this rule.

(3) For offenses other than those listed in subparagraph (c)(1)(A) of this rule:

(A) The convening authority may change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification; or

(B) Set aside any finding of guilty and:

(i) Dismiss the specification and, if appropriate, the charge; or

(ii) Direct a rehearing in accordance with subsection (e) of this rule.

(4) If the convening authority acts to dismiss or change any charge or specification for an offense, the convening authority shall provide, at the same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of trial and action thereon."

(ff) R.C.M. 1107(d) is amended to read as follows:

"(d) *Action on the sentence.*

(1) The convening authority shall take action on the sentence subject to the following:

(A) The convening authority may disapprove, commute, or suspend, in whole or in part, any portion of an adjudged sentence not explicitly prohibited by this rule, to include reduction in pay grade, forfeitures of pay and allowances, fines, reprimands, restrictions, and hard labor without confinement.

(B) Except as provided in subparagraph (d)(1)(C) of this rule, the convening authority may not disapprove, commute, or suspend, in whole or in part, that portion of an adjudged sentence that includes:

(i) confinement for more than six months; or

(ii) dismissal, dishonorable discharge, or bad-conduct discharge.

(C) *Exceptions.*

(i) *Trial counsel recommendation.* Upon the recommendation of the trial counsel, in recognition of the substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the convening authority or another person authorized to act under this rule shall have the authority to disapprove, commute, or suspend the adjudged sentence, in whole or in part, even with respect to an offense for which a mandatory minimum sentence exists.

(ii) *Pretrial agreement.* If a pretrial agreement has been entered into by the convening authority and the accused, as authorized by R.C.M. 705, the convening authority or another person authorized to act under this rule shall have the authority to approve, disapprove, commute, or suspend a sentence, in whole or in part, pursuant to the terms of the pretrial agreement. However, if a mandatory minimum sentence of a dishonorable discharge applies to an offense for which an accused has been convicted, the convening authority or another person authorized to act under this rule may commute the dishonorable discharge to a bad-conduct discharge pursuant to the terms of the pretrial agreement.

(D) If the convening authority acts to disapprove, commute, or suspend, in whole or in part, the sentence of the court-martial for an offense listed in subparagraph (c)(1)(A) of this rule, the convening authority shall provide, at the same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of trial and action thereon."

(gg) R.C.M. 1107(e) is amended to read as follows:

"(e) *Ordering rehearing or other trial.*

(1) *Rehearings not permitted.* A rehearing may not be ordered by the convening authority where the adjudged sentence for the case includes a sentence of dismissal, dishonorable discharge, or bad-conduct discharge or confinement for more than six months.

(2) *Rehearings permitted.*

(A) *In general.* Subject to paragraph (e)(1) and subparagraphs (e)(2)(B) through (e)(2)(E) of this rule, the convening authority may in the convening authority's discretion order a rehearing. A rehearing may be ordered as to some or all offenses of which findings of guilty were entered and the sentence, or as to the sentence only.

(B) *When the convening authority may order a rehearing.* The convening authority may order a rehearing:

(i) *When taking action on the court-martial under this rule.* Prior to ordering a rehearing on a finding, the convening authority must disapprove the applicable finding and the sentence and state the reasons for disapproval of said finding. Prior to ordering a rehearing on the sentence, the convening authority must disapprove the sentence.

(ii) *When authorized to do so by superior competent authority.* If the convening authority finds a rehearing as to any offenses impracticable, the convening authority may dismiss those specifications and, when appropriate, charges.

(iii) *Sentence reassessment.* If a superior competent authority has approved some of the findings of guilty and has authorized a rehearing as to other offenses and the sentence, the convening authority may, unless otherwise directed, reassess the sentence based on the approved findings of guilty and dismiss the remaining charges. Reassessment is appropriate only where the convening authority determines that the accused's sentence would have been at least of a certain magnitude had the prejudicial error not been committed and the reassessed sentence is appropriate in relation to the affirmed findings of guilty."

(C) *Limitations.*

(i) *Sentence approved.* A rehearing shall not be ordered if, in the same action, a sentence is approved.

(ii) *Lack of sufficient evidence.* A rehearing may not be ordered as to findings of guilty when there is a lack of sufficient evidence in the record to support the findings of guilty of the offense charged or of any lesser included offense. A rehearing may be ordered, however, if the proof of guilt consisted of inadmissible evidence for which there is available an admissible substitute. A rehearing may be ordered as to any lesser offense included in an offense of which the accused was found guilty, provided there is sufficient evidence in the record to support the lesser included offense.

(iii) *Rehearing on sentence only.* A rehearing on sentence only shall not be referred to a different kind of court-martial from that which made the original findings. If the convening authority determines a rehearing on sentence is impracticable, the convening authority may approve a sentence of no punishment without conducting a rehearing.

(D) *Additional charges.* Additional charges may be referred for trial together with charges as to which a rehearing has been directed.

(E) *Lesser included offenses.* If at a previous trial the accused was convicted of a lesser included offense, a rehearing may be ordered only as to that included offense or as to a lesser included offense of the included offense that resulted in a finding of guilty at the previous trial. If, however, a rehearing is ordered improperly on the original offense charged and the accused is convicted of that offense at the rehearing, the finding as to the lesser included offense of which the accused was convicted at the original trial may nevertheless be approved.

(3) *"Other" trial.* The convening or higher authority may order an "other" trial if the original proceedings were invalid because of lack of jurisdiction or failure of a specification to state an offense. The authority ordering an "other" trial shall state in the action the basis for declaring the proceedings invalid."

(hh) The Note currently located immediately following the title of R.C.M. 1108(b) and prior to the first line, "The convening authority may…", is amended to read as follows:

"[Note: R.C.M. 1108(b) applies to offenses committed on or after 24 June 2014; however, if at least one offense in a case occurred prior to 24 June 2014, then the prior version of R.C.M. 1108(b) applies to all offenses in the case.]"

(ii) R.C.M. 1109(a) is amended to read as follows:

"(a) *In general.* Suspension of execution of the sentence of a court-martial may be vacated for violation of any condition of the suspension as provided in this rule."

(jj) R.C.M. 1109(c)(4)(A) is amended to read as follows:

"(A) *Rights of probationer.* Before the preliminary hearing, the probationer shall be notified in writing of:"

(kk) R.C.M. 1109(c)(4)(C) is amended to read as follows:

"(C) *Decision.* The hearing officer shall determine whether there is probable cause to believe that the probationer violated the conditions of the probationer's suspension. If the hearing officer determines that probable cause is lacking, the hearing officer shall issue a written order directing that the probationer be released from confinement. If the hearing officer determines that there is probable cause to believe that the probationer violated a condition of suspension, the hearing officer shall set forth this determination in a written memorandum that details therein the evidence relied upon and reasons for making the decision. The hearing officer shall forward the original memorandum or release order to the probationer's commander and forward a copy to the probationer and the officer in charge of the confinement facility."

(ll) A new sentence is added to the end of R.C.M. 1109(d)(1)(A) and reads as follows:

"The purpose of the hearing is for the hearing officer to determine whether there is probable cause to believe that the probationer violated a condition of the probationer's suspension."

(mm) R.C.M. 1109(d)(1)(C) is amended to read as follows:

"(C) *Hearing*. The procedure for the vacation hearing shall follow that prescribed in subsection (h) of this rule."

(nn) A new sentence is added to the end of R.C.M. 1109(d)(1)(D) and reads as follows:

"This record shall include the recommendation, the evidence relied upon, and reasons for making the decision."

(oo) R.C.M. 1109(d)(2)(A) is amended to read as follows:

"(A) *In general*. The officer exercising general court-martial jurisdiction over the probationer shall review the record produced by and the recommendation of the officer exercising special court-martial jurisdiction over the probationer, decide whether there is probable cause to believe that the probationer violated a condition of the probationer's suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising general court-martial jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence."

(pp) A new sentence is added to the end of R.C.M. 1109(e)(1) and reads as follows:

"The purpose of the hearing is for the hearing officer to determine whether there is probable cause to believe that the probationer violated the conditions of the probationer's suspension."

(qq) R.C.M. 1109(e)(3) is amended to read as follows:

"(3) *Hearing*. The procedure for the vacation hearing shall follow that prescribed in subsection (h) of this rule."

(rr) A new sentence is added to the end of R.C.M. 1109(e)(5) and reads as follows:

"This record shall include the recommendation, the evidence relied upon, and reasons for making the decision."

(ss) R.C.M. 1109(e)(6) is amended to read as follows:

"(6) *Decision*. The special court-martial convening authority shall review the record produced by and the recommendation of the person who conducted the vacation proceeding, decide whether there is probable cause to believe that the probationer violated a condition of the probationer's suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence."

(tt) A new sentence is added to the end of R.C.M. 1109(g)(1) and reads as follows:

"The purpose of the hearing is for the hearing officer to determine whether there is probable cause to believe that the probationer violated the conditions of the probationer's suspension."

(uu) R.C.M. 1109(g)(3) is amended to read as follows:

"(3) *Hearing*. The procedure for the vacation hearing shall follow that prescribed in subsection (h) of this rule."

(vv) A new sentence is added to the end of R.C.M. 1109(g)(5) and reads as follows:

"This record shall include the recommendation, the evidence relied upon, and reasons for making the decision."

(ww) R.C.M. 1109(g)(6) is amended to read as follows:

"(6) *Decision.* A commander with authority to vacate the suspension shall review the record produced by and the recommendation of the person who conducted the vacation proceeding, decide whether there is probable cause to believe that the probationer violated a condition of the probationer's suspension, and, if so, decide whether to vacate the suspended sentence. If the officer exercising jurisdiction decides to vacate the suspended sentence, that officer shall prepare a written statement of the evidence relied on and the reasons for vacating the suspended sentence."

(xx) A new R.C.M. 1109(h) is inserted immediately after R.C.M. 1109(g)(7) and reads as follows:

"(h) *Hearing procedure.*

(1) *Generally.* The hearing shall begin with the hearing officer informing the probationer of the probationer's rights. The government will then present evidence. Upon the conclusion of the government's presentation of evidence, the probationer may present evidence. The probationer shall have full opportunity to present any matters in defense, extenuation, or mitigation. Both the government and probationer shall be afforded an opportunity to cross-examine adverse witnesses. The hearing officer may also question witnesses called by the parties.

(2) *Rules of evidence.* The Military Rules of Evidence—other than Mil. R. Evid. 301, 302, 303, 305, 412, and Section V—shall not apply. Nor shall Mil. R. Evid. 412(b)(1)(C) apply. In applying these rules to a vacation hearing, the term "military judge," as used in these rules,

shall mean the hearing officer, who shall assume the military judge's authority to exclude evidence from the hearing, and who shall, in discharging this duty, follow the procedures set forth in these rules. However, the hearing officer is not authorized to order production of communications covered by Mil. R. Evid. 513 or 514.

(3) *Production of witnesses and other evidence*. The procedure for the production of witnesses and other evidence shall follow that prescribed in R.C.M. 405(g), except that R.C.M. 405(g)(3)(B) shall not apply. The hearing officer shall only consider testimony and other evidence that is relevant to the limited purpose of the hearing.

(4) *Presentation of testimony*. Witness testimony may be provided in person, by video teleconference, by telephone, or by similar means of remote testimony. All testimony shall be taken under oath, except that the probationer may make an unsworn statement.

(5) *Other evidence*. If relevant to the limited purpose of the hearing, and not cumulative, a hearing officer may consider other evidence, in addition to or in lieu of witness testimony, including statements, tangible evidence, or reproductions thereof, offered by either side, that the hearing officer determines is reliable. This other evidence need not be sworn.

(6) *Presence of probationer*. The taking of evidence shall not be prevented and the probationer shall be considered to have waived the right to be present whenever the probationer:

(A) After being notified of the time and place of the proceeding is voluntarily absent; or

(B) After being warned by the hearing officer that disruptive conduct will cause removal from the proceeding, persists in conduct that is such as to justify exclusion from the proceeding.

(7) *Objections*. Any objection alleging failure to comply with these rules shall be made to the convening authority via the hearing officer. The hearing officer shall include a record of all objections in the written recommendations to the convening authority.

(8) *Access by spectators*. Vacation hearings are public proceedings and should remain open to the public whenever possible. The convening authority who directed the hearing or the hearing officer may restrict or foreclose access by spectators to all or part of the proceedings if an overriding interest exists that outweighs the value of an open hearing. Examples of overriding interests may include: preventing psychological harm or trauma to a child witness or an alleged victim of a sexual crime, protecting the safety or privacy of a witness or alleged victim, protecting classified material, and receiving evidence where a witness is incapable of testifying in an open setting. Any closure must be narrowly tailored to achieve the overriding interest that justified the closure. Convening authorities or hearing officers must conclude that no lesser methods short of closing the hearing can be used to protect the overriding interest in the case. Convening authorities or hearing officers must conduct a case-by-case, witness-by-witness, circumstance-by-circumstance analysis of whether closure is necessary. If a convening authority or hearing officer believes closing the hearing is necessary, the convening authority or hearing officer must make specific findings of fact in writing that support the closure. The written findings of fact must be included in the record.

(9) *Victim's rights*. Any victim of the underlying offense for which the probationer received the suspended sentence, or any victim of the alleged offense that is the subject of the vacation hearing, has the right to reasonable, accurate, and timely notice of the vacation hearing. For purposes of this rule, the term "victim" is defined as an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense."

(yy) A new R.C.M. 1203(g) is inserted immediately after R.C.M. 1203(f) and reads as follows:

"(g) *Article 6b(e) petition for writ of mandamus*. The Judge Advocates General shall establish the means by which the petitions for writs of mandamus described in Article 6b(e) are forwarded to the Courts of Criminal Appeals in accordance with their rule-making functions of Article 66(f)."

Sec. 2. Part III of the Manual for Courts-Martial, United States, is amended as follows:

(a) Mil. R. Evid. 304(c) is amended to read as follows:

"(c) *Corroboration of a Confession or Admission.*

(1) An admission or a confession of the accused may be considered as evidence against the accused on the question of guilt or innocence only if independent evidence, either direct or circumstantial, has been admitted into evidence that would tend to establish the trustworthiness of the admission or confession.

(2) Other uncorroborated confessions or admissions of the accused that would themselves require corroboration may not be used to supply this independent evidence. If the independent evidence raises an inference of the truth of the admission or confession, then it may be considered as evidence against the accused. Not every element or fact contained in the confession or admission must be independently proven for the confession or admission to be admitted into evidence in its entirety.

(3) Corroboration is not required for a statement made by the accused before the court by which the accused is being tried, for statements made prior to or contemporaneously with the act, or for statements offered under a rule of evidence other than that pertaining to the admissibility of admissions or confessions.

(4) *Quantum of Evidence Needed.* The independent evidence necessary to establish corroboration need not be sufficient of itself to establish beyond a reasonable doubt the truth of facts stated in the admission or confession. The independent evidence need raise only an inference of the truth of the admission or confession. The amount and type of evidence introduced as corroboration is a factor to be considered by the trier of fact in determining the weight, if any, to be given to the admission or confession.

(5) *Procedure*. The military judge alone is to determine when adequate evidence of corroboration has been received. Corroborating evidence must be introduced before the admission or confession is introduced unless the military judge allows submission of such evidence subject to later corroboration."

(b) Mil. R. Evid. 311(a) is amended to read as follows:

"(a) *General rule*. Evidence obtained as a result of an unlawful search or seizure made by a person acting in a governmental capacity is inadmissible against the accused if:

(1) the accused makes a timely motion to suppress or an objection to the evidence under this rule;

(2) the accused had a reasonable expectation of privacy in the person, place, or property searched; the accused had a legitimate interest in the property or evidence seized when challenging a seizure; or the accused would otherwise have grounds to object to the search or seizure under the Constitution of the United States as applied to members of the Armed Forces; and

(3) exclusion of the evidence results in appreciable deterrence of future unlawful searches or seizures and the benefits of such deterrence outweigh the costs to the justice system."

(c) A new Mil. R. Evid. 311(c)(4) is inserted immediately after Mil. R. Evid. 311(c)(3)(C) and reads as follows:

"(4) *Reliance on Statute*. Evidence that was obtained as a result of an unlawful search or seizure may be used when the official seeking the evidence acts in objectively reasonable reliance on a statute later held violative of the Fourth Amendment."

(d) Mil. R. Evid. 311(d)(5)(A) is amended to read as follows:

"(A) *In general.* When the defense makes an appropriate motion or objection under subdivision (d), the prosecution has the burden of proving by a preponderance of the evidence that the evidence was not obtained as a result of an unlawful search or seizure, that the evidence would have been obtained even if the unlawful search or seizure had not been made, that the evidence was obtained by officials who reasonably and with good faith relied on the issuance of an authorization to search, seize, or apprehend or a search warrant or an arrest warrant; that the evidence was obtained by officials in objectively reasonable reliance on a statute later held violative of the Fourth Amendment; or that the deterrence of future unlawful searches or seizures is not appreciable or such deterrence does not outweigh the costs to the justice system of excluding the evidence."

(e) Mil. R. Evid. 414(d)(2)(A) is amended to read as follows:

"(A) any conduct prohibited by Article 120 and committed with a child, or prohibited by Article 120b."

(f) Mil. R. Evid. 504 is amended to read as follows:

**"Rule 504. Marital privilege**

(a) *Spousal Incapacity.* A person has a privilege to refuse to testify against his or her spouse. There is no privilege under subdivision (a) when, at the time of the testimony, the parties are divorced, or the marriage has been annulled.

(b) *Confidential Communication Made During the Marriage.*

(1) *General Rule.* A person has a privilege during and after the marital relationship to refuse to disclose, and to prevent another from disclosing, any confidential communication made to the spouse of the person while they were married and not separated as provided by law.

(2) *Who May Claim the Privilege.* The privilege may be claimed by the spouse who made the communication or by the other spouse on his or her behalf. The authority of the latter spouse to do so is presumed in the absence of evidence of a waiver. The privilege will not prevent disclosure of the communication at the request of the spouse to whom the communication was made if that spouse is an accused regardless of whether the spouse who made the communication objects to its disclosure.

(c) *Exceptions.*

(1) *To Confidential Communications Only.* Where both parties have been substantial participants in illegal activity, those communications between the spouses during the marriage regarding the illegal activity in which they have jointly participated are not marital communications for purposes of the privilege in subdivision (b) and are not entitled to protection under the privilege in subdivision (b).

(2) *To Spousal Incapacity and Confidential Communications.* There is no privilege under subdivisions (a) or (b):

(A) In proceedings in which one spouse is charged with a crime against the person or property of the other spouse or a child of either, or with a crime against the person or property of a third person committed in the course of committing a crime against the other spouse;

(B) When the marital relationship was entered into with no intention of the parties to live together as spouses, but only for the purpose of using the purported marital relationship as a sham, and with respect to the privilege in subdivision (a), the relationship remains a sham at the time the testimony or statement of one of the parties is to be introduced against the other; or with respect to the privilege in subdivision (b), the relationship was a sham at the time of the communication; or

(C) In proceedings in which a spouse is charged, in accordance with Article 133 or 134, with importing the other spouse as an alien for prostitution or other immoral purpose in violation of 8 U.S.C. § 1328; with transporting the other spouse in interstate commerce for prostitution, immoral purposes, or another offense in violation of 18 U.S.C. §§ 2421-2424; or with violation of such other similar statutes under which such privilege may not be claimed in the trial of criminal cases in the United States district courts.

(d) *Definitions*. As used in this rule:

(1) "A child of either" means a biological child, adopted child, or ward of one of the spouses and includes a child who is under the permanent or temporary physical custody of one of the spouses, regardless of the existence of a legal parent-child relationship. For purposes of this rule only, a child is:

(A) an individual under the age of 18; or

(B) an individual with a mental handicap who functions under the age of 18.

(2) "Temporary physical custody" means a parent has entrusted his or her child with another. There is no minimum amount of time necessary to establish temporary physical custody, nor is a written agreement required. Rather, the focus is on the parent's agreement with another for assuming parental responsibility for the child. For example, temporary physical custody may include instances where a parent entrusts another with the care of his or her child for recurring care or during absences due to temporary duty or deployments.

(3) As used in this rule, a communication is "confidential" if made privately by any person to the spouse of the person and is not intended to be disclosed to third persons other than those reasonably necessary for transmission of the communication."

(g) Mil. R. Evid. 505(e)(2) is amended by replacing "investigating officer" with "preliminary hearing officer."

(h) Mil. R. Evid. 801(d)(1)(B) is amended to read as follows:

"(B) is consistent with the declarant's testimony and is offered:

(i) to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

(ii) to rehabilitate the declarant's credibility as a witness when attacked on another ground; or"

(i) The first sentence of Mil. R. Evid. 803(6)(E) is amended to read as follows:

"(E) the opponent does not show that the source of information or the method or circumstance of preparation indicate a lack of trustworthiness."

(j) Mil. R. Evid. 803(7)(C) is amended to read as follows

"(C) the opponent does not show that the possible source of the information or other circumstances indicate a lack of trustworthiness."

(k) The first sentence of Mil. R. Evid. 803(8)(B) is amended to read as follows:

"(B) the opponent does not show that the source of information or other circumstances indicate a lack of trustworthiness."

(l) Mil. R. Evid. 803(10)(B) is amended to read as follows:

"(B) a counsel for the government who intends to offer a certification provides written notice of that intent at least 14 days before trial, and the accused does not object in writing within 7 days of receiving the notice — unless the military judge sets a different time for the notice or the objection."

(m) Mil. R. Evid. 804(b)(1)(B) is amended by replacing "pretrial investigation" with "preliminary hearing."

(n) Mil. R. Evid. 1101(d)(2) is amended by replacing "pretrial investigations" with "preliminary hearings."

Sec. 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 4, Article 80 – Attempts, subparagraph e. is amended to read as follows:

"e. *Maximum punishment*. Any person subject to the code who is found guilty of an attempt under Article 80 to commit any offense punishable by the code shall be subject to the same maximum punishment authorized for the commission of the offense attempted, except that in no case shall the death penalty be adjudged, and in no case, other than attempted murder, shall confinement exceeding 20 years be adjudged. Except in the cases of attempts of Article 120(a) or (b), rape or sexual assault of a child under Article 120b(a) or (b), and forcible sodomy under Article 125, mandatory minimum punishment provisions shall not apply."

(b) Paragraph 57, Article 131 – Perjury, subparagraph c.(1) is amended by replacing "an investigation" with "a preliminary hearing."

(c) Paragraph 57, Article 131 – Perjury, subparagraph c.(3) is amended by replacing "investigation" with "preliminary hearing."

(d) Paragraph 96, Article 134 – Obstructing justice, subparagraph f is amended to read as follows:

"f. *Sample specification.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20__ , wrongfully (endeavor to) (impede (a trial by court-martial) (an investigation) (a preliminary hearing) (_____)) [influence the actions of _____, (a trial counsel of the court-martial) (a defense counsel of the court-martial) (an officer responsible for making a recommendation concerning disposition of charges) (_____)] [(influence) (alter) the testimony of _____ as a witness before a (court-martial) (an investigating officer) (a preliminary hearing) (_____)] in the case of by [(promising) (offering) (giving) to the said _____, (the sum of $ _____) (_____ , of a value of about $ _____)] [communicating to the said _____ a threat to _____] [_____], (if) (unless) he/she, the said _____, would [recommend dismissal of the charges against said _____] [(wrongfully refuse to testify) (testify falsely concerning _____) (_____ )] [(at such trial) (before such investigating officer) (before such preliminary hearing officer)] [_____ ]."

(e) Paragraph 108, Testify: wrongful refusal, subparagraph f is amended by replacing "officer conducting an investigation under Article 32, Uniform Code of Military Justice" with "officer conducting a preliminary hearing under Article 32, Uniform Code of Military Justice."

(f) Paragraph 110, Article 134 – Threat, communicating, subparagraph c is amended to read as follows:

"c. *Explanation.* For purposes of this paragraph, to establish that the communication was wrongful it is necessary that the accused transmitted the communication for the purpose of issuing a threat, with the knowledge that the communication would be viewed as a threat, or acted recklessly with regard to whether the communication would be viewed as a threat. However, it is not necessary to establish that the accused actually intended to do the injury threatened. Nor is the offense committed by the mere statement of intent to commit an unlawful act not involving injury to another. *See also* paragraph 109, Threat or hoax designed or intended to cause panic or public fear."

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# Rules and Regulations

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Thursday, May 26, 2016

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 948

## Irish Potatoes Grown in Colorado

*CFR Correction*

In Title 7 of the Code of Federal Regulations, Parts 900 to 999, revised as of January 1, 2016, on page 338, § 948.215 is reinstated to read as follows:

### § 948.215 Assessment rate.

On or after July 1, 2005, an assessment rate of $0.02 per hundredweight is established for Colorado Area No. 3 potatoes.

[70 FR 36816, June 27, 2005]

[FR Doc. 2016–12582 Filed 5–25–16; 8:45 am]

**BILLING CODE 1505–01–D**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–7528; Directorate Identifier 2015–NM–004–AD; Amendment 39–18524; AD 2016–10–13]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. This AD was prompted by reports of premature aging of certain passenger chemical oxygen generators that resulted in the generators failing to activate. This AD requires an inspection to determine if certain passenger chemical oxygen generators are installed and replacement of affected passenger chemical oxygen generators. We are issuing this AD to prevent failure of the passenger chemical oxygen generator to activate and consequently not deliver oxygen during an emergency, possibly resulting in injury to airplane occupants.

**DATES:** This AD is effective June 30, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 30, 2016.

**ADDRESSES:** For Airbus service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* For B/E Aerospace service information identified in this final rule, contact B/E Aerospace Inc., 10800 Pflumm Road, Lenexa, KS 66215; telephone: 913–338–9800; fax: 913–469–8419; Internet *http://beaerospace.com/home/globalsupport.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7528.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7528; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116 Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The NPRM published in the **Federal Register** on December 23, 2015 (80 FR 79745) ("the NPRM"). The NPRM was prompted by reports of premature aging of certain passenger chemical oxygen generators that resulted in the generators failing to activate. The NPRM proposed to require an inspection to determine if certain passenger chemical oxygen generators are installed and replacement of affected passenger chemical oxygen generators. We are issuing this AD to prevent failure of the passenger chemical oxygen generator to activate and consequently not deliver oxygen during an emergency, possibly resulting in injury to airplane occupants.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2015–0118, dated June 24, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The MCAI states:

> Reports have been received indicating premature ageing of certain chemical oxygen generators, Part Number (P/N) 117042–XX (XX representing any numerical value), manufactured by B/E Aerospace. Some operators reported that when they tried to activate generators, some older units failed to activate. Given the number of failed units reported, all generators manufactured in

1999, 2000, and 2001 were considered unreliable.

This condition, if not corrected, could lead to failure of the generator to activate and consequently not deliver oxygen during an emergency, possibly resulting in injury to aeroplane occupants.

To address this potential unsafe condition, Airbus issued Alert Operators Transmission (AOT) A35W008–14, making reference to B/E Aerospace Service Information Letter (SIL) D1019–01 (currently at Revision 1) and B/E Aerospace Service Bulletin (SB) 117042–35–001. Consequently, EASA issued AD 2014–0280 [*http://ad.easa.europa.eu/ad/2014-0280*] to require identification and replacement of the affected oxygen generators.

Since EASA AD 2014–0280 was issued, and following new investigation results, EASA [has] decided to introduce a life limitation concerning all P/N 117042–XX chemical oxygen generators, manufactured by B/E Aerospace.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2014–0280, which is superseded, expands the scope of the [EASA] AD to include chemical oxygen generators manufactured after 2001, and requires their removal from service before exceeding 10 years since date of manufacture.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7528.

### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

### Additional Change Made to This AD

In paragraph (i) of the proposed AD, we inadvertently referred to Airbus Alert Operators Transmission (AOT) A35N006–14, including Appendix 01, dated December 10, 2014, as the appropriate source of service information for replacing 22 minute passenger chemical oxygen generators. We have corrected that error in paragraph (i) of this AD, which refers to Airbus AOT A35W008–14, dated December 18, 2014, including Appendix A, undated, as the appropriate source of service information for replacing 22 minute passenger chemical oxygen generators.

### Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD with the change described previously, and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

### Related Service Information Under 1 CFR Part 51

We reviewed the following service information.

- Airbus AOT A35W008–14, dated December 18, 2014, including Appendix A, undated.
- B/E Aerospace Service Bulletin 117042–35–001, dated December 10, 2014.

This service information describes procedures to replace certain passenger chemical oxygen generators. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

### Costs of Compliance

We estimate that this AD affects 166 airplanes of U.S. registry.

We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD, and 1 work-hour per product for reporting. The average labor rate is $85 per work-hour. Required parts will cost about $390 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $107,070, or $645 per product.

### Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2016–10–13 Airbus:** Amendment 39–18524. Docket No. FAA–2015–7528; Directorate Identifier 2015–NM–004–AD.

**(a) Effective Date**

This AD is effective June 30, 2016.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Airbus Model A300 B4–605R and B4–622R airplanes.

(3) Airbus Model A300 F4–605R and F4–622R airplanes.

(4) Airbus Model A300 C4–605R Variant F airplanes.

(5) Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 35, Oxygen.

**(e) Reason**

This AD was prompted by reports of premature aging of certain passenger chemical oxygen generators that resulted in the generators failing to activate. We are issuing this AD to prevent failure of the passenger chemical oxygen generator to activate and consequently not deliver oxygen during an emergency, possibly resulting in injury to airplane occupants.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Part Number Inspection**

Within 30 days after the effective date of this AD, do a one-time inspection of passenger chemical oxygen generators, part numbers (P/N) 117042–02 (15 minutes (min)—2 masks), 117042–03 (15 min—3 masks), 117042–04 (15 min—4 masks), 117042–22 (22 min—2 masks), 117042–23 (22 min—3 masks), or 117042–24 (22 min—4 masks), to determine the date of manufacture, as specified in Airbus Alert Operators Transmission (AOT) A35W008–14, dated December 18, 2014, including Appendix A, undated. Refer to Figure 1 to paragraph (g) of this AD and Figure 2 to paragraph (g) of this AD for the location of the date. A review of airplane maintenance records is acceptable for the inspection required by this paragraph, provided the date of manufacture can be conclusively determined by that review.

**Figure 1 to paragraph (g) of this AD -** *Location of date (MM-YY)*

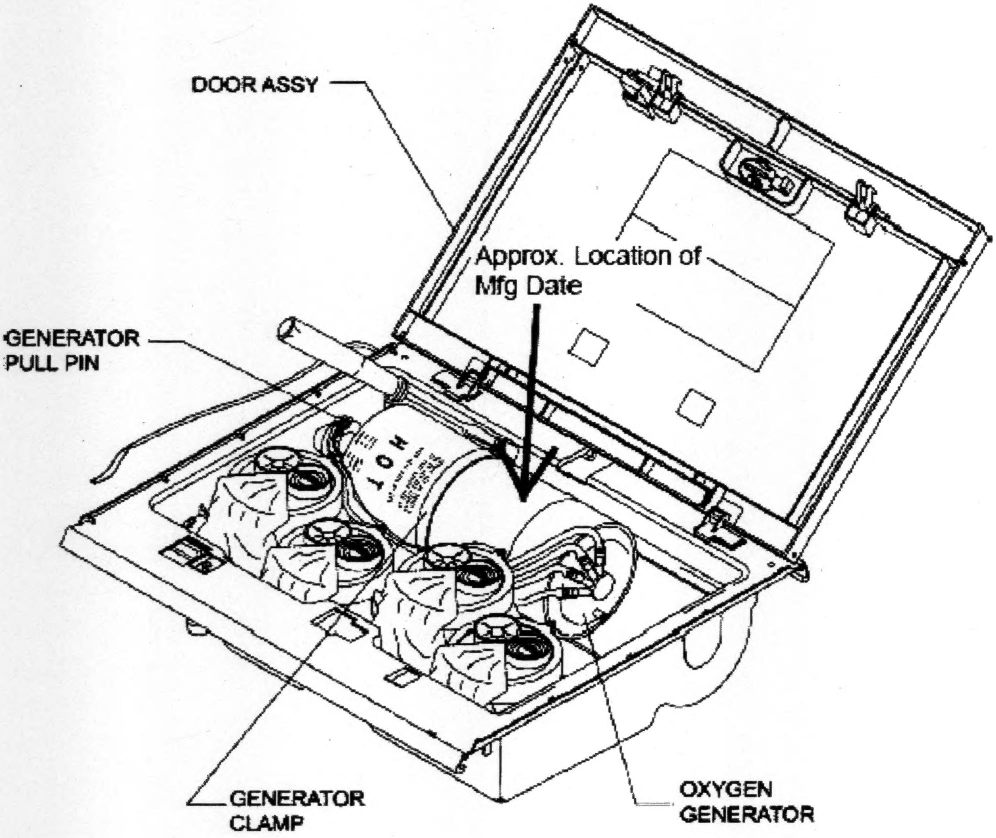
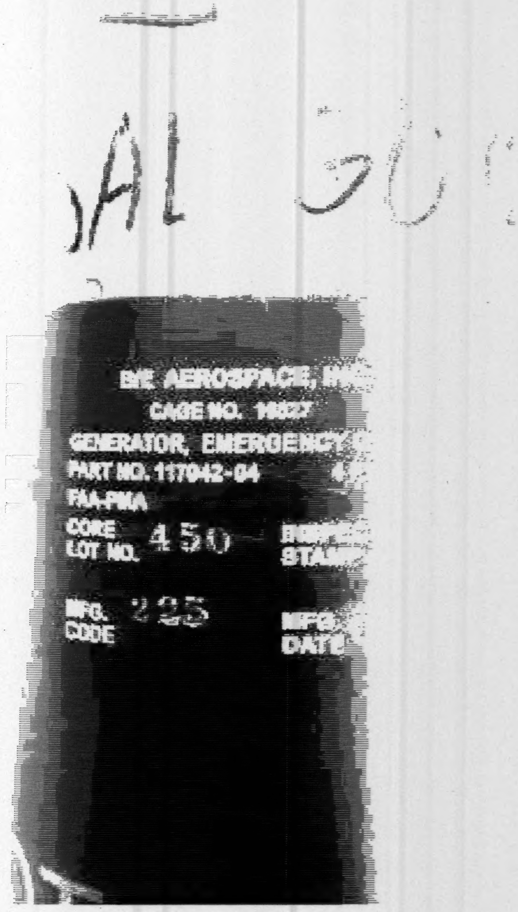


**Figure 2 to paragraph (g) of this AD** – *Manufacturing Date (06-02 = June 2002) example*



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**(h) Replacement of Passenger Chemical Oxygen Generators Manufactured in 1999, 2000, and 2001**

If, during any inspection required by paragraph (g) of this AD, any passenger chemical oxygen generator having a date of manufacture in 1999, 2000, or 2001 is found: At the applicable time specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD, remove and replace the affected passenger chemical oxygen generator with a serviceable unit, in accordance with the Accomplishment Instructions of B/E Aerospace Service Bulletin 117042–35–001, dated December 10, 2014 (for 15 minute passenger chemical oxygen generators); or Airbus AOT A35W008–14, dated December 18, 2014, including Appendix A, undated (for 22 minute passenger chemical oxygen generators); as applicable.

(1) For passenger chemical oxygen generators that have a date of manufacture in 1999: Remove and replace within 30 days after the effective date of this AD.

(2) For passenger chemical oxygen generators that have a date of manufacture in 2000: Remove and replace within 6 months after the effective date of this AD.

(3) For passenger chemical oxygen generators that have a date of manufacture in 2001: Remove and replace within 12 months after the effective date of this AD.

**(i) Replacement of Passenger Chemical Oxygen Generators Manufactured in 2002 and Later**

If, during any inspection required by paragraph (g) of this AD, any passenger chemical oxygen generator having a date specified in Table 1 to paragraph (i) of this AD is found: At the applicable time specified in Table 1 to paragraph (i) of this AD, remove and replace the affected passenger chemical oxygen generator with a serviceable unit, in accordance with the Accomplishment Instructions of B/E Aerospace Service Bulletin 117042–35–001, dated December 10, 2014 (for 15 minute passenger chemical oxygen generators); or Airbus AOT A35W008–14, dated December 18, 2014, including Appendix A, undated (for 22 minute passenger chemical oxygen generators); as applicable.

TABLE 1 TO PARAGRAPH (i) OF THIS AD—REPLACEMENT COMPLIANCE TIMES

| Year of manufacture | Compliance time |
|---|---|
| 2002 | Within 12 months after the effective date of this AD. |
| 2003 | Within 16 months after the effective date of this AD. |
| 2004 | Within 20 months after the effective date of this AD. |
| 2005 | Within 24 months after the effective date of this AD. |
| 2006 | Within 28 months after the effective date of this AD. |
| 2007 | Within 32 months after the effective date of this AD. |
| 2008 | Within 36 months after the effective date of this AD. |
| 2009 | Before exceeding 10 years since date of manufacture of the passenger chemical oxygen generator. |

**(j) Definition of Serviceable**

For the purpose of this AD, a serviceable unit is a passenger chemical oxygen generator having P/N 117042–XX (XX represents any numerical value) with a manufacturing date not older than 10 years, or any other approved part number, provided that the generator has not exceeded the life limit established for that generator by the manufacturer.

**(k) Reporting**

At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD, submit a report of the findings (both positive and negative) of the inspection required by paragraph (g) of this AD, in accordance with paragraph 7., "Reporting," of Airbus AOT A35W008–14, dated December 18, 2014, including Appendix A, undated. The report must include the information specified in Appendix A, undated, of Airbus AOT A35W008–14, dated December 18, 2014.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**(l) Parts Installation Limitation**

As of the effective date of this AD, no person may install a passenger chemical oxygen generator, unless it is determined, prior to installation, that the oxygen generator is a serviceable unit (as defined in paragraph (j) of this AD).

**(m) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116 Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227- 2125; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(n) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0118, dated June 24, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7528.

**(o) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Alert Operators Transmission (AOT) A35W008–14, dated December 18, 2014, including Appendix A, undated.

(ii) B/E Aerospace Service Bulletin 117042–35–001, dated December 10, 2014.

(3) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(4) For B/E Aerospace service information identified in this AD, contact B/E Aerospace Inc., 10800 Pflumm Road, Lenexa, KS 66215; telephone: 913–338–9800; fax: 913–469–8419; Internet *http://beaerospace.com/home/globalsupport.*

(5) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 12, 2016.

**Suzanne Masterson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–12156 Filed 5–25–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–2457; Directorate Identifier 2014–NM–209–AD; Amendment 39–18525; AD 2016–10–14]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain

Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes. This AD was prompted by a report indicating that some operators have inadvertently removed the existing insulation blankets from the upper wing box area. This AD requires inspecting for and replacing missing insulation blankets in the upper wing box area. We are issuing this AD to detect and replace missing insulation blankets from the upper wing box area, which could result in inadequate thermal protection to prevent fuel ignition in the event of an undetected bleed-air leak due to a cracked or ruptured bleed-air duct.

**DATES:** This AD becomes effective June 30, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 30, 2016.

**ADDRESSES:** For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2457.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2457; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Morton Lee, Aerospace Engineer, Propulsion and Services Branch, ANE–173, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7355; fax 516–794–5531.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on July 7, 2015 (80 FR 38656) (“the NPRM”).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–35, dated October 3, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> It was discovered that some operators have inadvertently removed the existing insulation blankets from the upper wing box area while incorporating Bombardier Service Bulletin (SB) 670BA–36–016 to comply with [Canadian] AD CF–2012–06 [*http://wwwapps3.tc.gc.ca/Saf-Sec-Sur/2/cawis-swimn/awd-lv-cs1401.asp?rand=*] [which corresponds to FAA AD 2012–12–02, Amendment 39–17081 (77 FR 36129, June 18, 2012)].
>
> Without insulation blankets on the upper wing box area, there may be inadequate thermal protection to prevent fuel ignition in the event of an undetected bleed air leak due to a cracked or ruptured bleed-air duct.
>
> This [Canadian] AD mandates the inspection and rectification [*i.e.,* replacement], as required, of the insulation blankets in the upper wing box area.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2457.

### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA’s response to each comment.

### Request To Revise the Applicability

Bombardier and Endeavor Air requested that we exclude certain airplanes from the applicability. Bombardier stated that two airplanes, manufacturer serial numbers 15272 and 15279, should not be included in the applicability of the proposed AD, since these two airplanes had Bombardier Service Bulletin 670BA–36–016, Revision A, dated October 11, 2011, incorporated during production by the manufacturer. Therefore, Bombardier stated that those airplanes are not affected by the potential unsafe condition. Bombardier commented that proof of incorporation by Bombardier personnel can be provided to the FAA if required.

Endeavor Air stated that these airplanes accomplished Bombardier Service Bulletin 670BA–36–016, Revision A, dated October 11, 2011, prior to delivery to the operator.

We agree with the commenter’s request for the reasons provided above. We have revised paragraph (c) of this AD accordingly.

### Request To Provide Clarification of AD Actions

Endeavor Air stated that the proposed AD would require affected operators to inspect for missing thermal protection blankets using Bombardier Service Bulletin 670BA–57–024 because “. . . some operators have inadvertently removed the existing insulation blanket from the upper wing box area while incorporating Bombardier Service Bulletin 670BA–36–016 to comply with FAA AD 2012–12–02. . . .”

Endeavor Air stated that the FAA did not provide any information why this may have occurred or that the problem is widespread. Endeavor Air also stated that Bombardier Service Bulletin 670BA–36–016 did not include instructions for removing the insulation blankets that were inadvertently removed by some operators. Endeavor Air therefore concluded that the operators or their maintenance provider did not correctly follow the instructions in Bombardier Service Bulletin 670BA–36–016. Endeavor Air stated that it does not agree that the incorrect accomplishment of Bombardier Service Bulletin 670BA–36–016 by some operators should require all affected operators to perform the blanket inspections without a clear explanation why this problem could plausibly exist for all operators.

We agree that clarification is necessary. Bombardier has the service history and data showing a potential widespread problem, and TCCA concurred. Bombardier developed Bombardier Service Bulletin 670BA–57–024 with a different effectivity than that of Bombardier Service Bulletin 670BA–36–016 in order to give credit to airplanes on which the original blankets were not removed when Bombardier Service Bulletin 670BA–36–016 was incorporated. We have added an option to paragraph (g) of this AD to allow operators to do a records review in lieu of the inspection.

### Request To Review Compliance Method

Endeavor Air requested the we review the last sentence in paragraph (g)(2) of the proposed AD. Endeavor Air stated that because the corrective action is to restore an already approved configuration by reinstalling insulation blankets, it believes that the corrective action using "a method acceptable to the Manager, New York Aircraft Certification Office," rather than "a method approved by the Manager, New York Aircraft Certification Office," would suffice.

We disagree with the commenter. The word "approved" is part of our standard language for describing methods of compliance in ADs. For a method to be "acceptable," it must have FAA approval. We have not changed this AD is this regard.

### Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

### Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Service Bulletin 670BA–57–024, dated July 23, 2014. This service information describes procedures for an inspection of the insulation blankets in the upper wing box area to find if the blankets are installed, and replacement of missing insulation blankets. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

### Costs of Compliance

We estimate that this AD affects 470 airplanes of U.S. registry.

We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $159,800, or $340 per product.

In addition, we estimate that any necessary follow-on actions would take up to 70 work-hours and require parts costing up to $665, for a cost of up to $6,615 per product. We have no way of determining the number of aircraft that might need this action.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2016–10–14 Bombardier, Inc.:** Amendment 39–18525. Docket No. FAA–2015–2457; Directorate Identifier 2014–NM–209–AD.

### (a) Effective Date

This AD becomes effective June 30, 2016.

### (b) Affected ADs

None.

### (c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category, as identified in Bombardier Service Bulletin 670BA–57–024, dated July 23, 2014; except airplanes having manufacturer serial numbers 15272 and 15279.

### (d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

### (e) Reason

This AD was prompted by a report indicating that some operators have inadvertently removed the existing insulation blankets from the upper wing box area. We are issuing this AD to detect and replace missing insulation blankets from the upper wing box area, which could result in inadequate thermal protection to prevent fuel ignition in the event of an undetected bleed-air leak due to a cracked or ruptured bleed-air duct.

### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

### (g) Inspection

Within 800 flight hours or 4 months after the effective date of this AD, whichever occurs first: Do a general visual inspection of the insulation blankets in the upper wing box area to determine whether any insulation blanket is missing in specified areas, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–57–024, dated July 23, 2014. For airplanes on which Bombardier Service Bulletin 670BA–36–016 has been done: A review of airplane maintenance records is acceptable in lieu of this inspection if it can be conclusively determined from that review that the insulation blanket has been reinstalled after incorporation of Bombardier Service Bulletin 670BA–36–016.

(1) If no insulation blanket is missing, no further action is required by this AD.

(2) If any insulation blanket is missing, within 1,200 flight hours or 6 months after the effective date of this AD, whichever occurs first, replace the missing insulation blankets, in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–57–024, dated July 23, 2014; except, where Bombardier Service Bulletin 670BA–57–024, dated July 23, 2014, specifies contacting Bombardier for "an approved disposition to complete this service bulletin," this AD requires corrective action to be done using a method approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

### (h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

### (i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–35, dated October 3, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2457.

### (j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Service Bulletin 670BA–57–024, dated July 23, 2014.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 12, 2016.

**Suzanne Masterson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–11932 Filed 5–25–16; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–8430; Directorate Identifier 2015–NM–093–AD; Amendment 39–18523; AD 2016–10–12]**

**RIN 2120–AA64**

## Airworthiness Directives; Fokker Services B.V. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This AD was prompted by accomplishment of a taxi-out checklist which revealed that the elevator movement was partially obstructed due to rotation of the flight control lock adjuster bracket. This AD requires a one-time inspection of the elevator tension control regulator for discrepancies, and corrective actions if necessary. We are issuing this AD to detect and correct discrepancies of the elevator tension control regulators. Such a condition could result in jamming of the elevator mechanism and consequent reduced controllability of the airplane.

**DATES:** This AD is effective June 30, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 30, 2016.

**ADDRESSES:** For service information identified in this final rule, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8430.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8430; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. The NPRM published in the **Federal Register** on January 13, 2016 (81 FR 1565) ("the NPRM").

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0091, dated May 26, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. The MCAI states:

> During the accomplishment of the taxi-out checklist on an F28 Mark 0100 aeroplane, the flight crew noticed that the elevator movement was partially obstructed. The subsequent investigation revealed that this was due to rotation of the flight control lock adjuster bracket, which had come loose from the elevator tension control regulator. Two of the three attachment bolts were found broken, and two nuts were missing. Although no root cause could be identified for the absence of these nuts, they are considered as the main contributor to the occurrence.
>
> This condition, if not detected and corrected, could lead to jamming of the elevator mechanism, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Fokker Services published Service Bulletin (SB) SBF 100–27–095, which provides instructions to detect and correct any discrepancies, and to re-install missing or broken parts (if any).
>
> For the reasons described above, this [EASA] AD requires a one-time inspection of the elevator tension control regulator and, depending on findings, accomplishment of applicable corrective action(s).
>
> More information on this subject can be found in Fokker Services All Operators Message AOF100–198.

Discrepancies include loose control lock adjuster brackets, broken bracket attachment bolts, and missing nuts. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8430.

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

## Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

## Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–27–095, dated April 22, 2015. The service information describes procedures for a one-time inspection of the elevator tension control regulator for discrepancies, and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

## Costs of Compliance

We estimate that this AD affects 8 airplanes of U.S. registry.

We also estimate that it takes 1 work-hour per product to do the inspection in this AD, and 1 work-hour per product to report inspection findings. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,360, or $170 per product.

We have received no definitive data that will enable us to provide cost estimates for the on-condition actions specified in this AD.

## Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

## Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

## Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2016–10–12 Fokker Services B.V.:** Amendment 39–18523. Docket No. FAA–2015–8430; Directorate Identifier 2015–NM–093–AD.

### (a) Effective Date

This AD is effective June 30, 2016.

### (b) Affected ADs

None.

### (c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

### (d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

### (e) Reason

This AD was prompted by accomplishment of a taxi-out checklist which revealed that the elevator movement was partially obstructed due to rotation of the flight control lock adjuster bracket. We are issuing this AD to detect and correct discrepancies of the elevator tension control regulators. Such a condition could result in jamming of the elevator mechanism and consequent reduced controllability of the airplane.

### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

### (g) Inspection/Corrective Actions

At the next scheduled opening of access panels 346AB or 346BL after the effective date of this AD, but no later than 5,000 flight hours after the effective date of this AD: Do a one-time detailed inspection of the elevator tension control regulator for discrepancies, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–27–095, dated April 22, 2015. If the flight control lock adjuster bracket is found loose, any bracket attachment bolt is found broken, or any nut is missing, before further flight, do all applicable corrective actions in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–27–095, dated April 22, 2015.

### (h) Reporting Requirement

Submit a report of any positive findings during any inspection required by paragraph (g) of this AD to Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88–6280–350; fax: +31 (0)88–6280–111; email: *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.*

(1) For airplanes on which the inspection specified in paragraph (g) of this AD is accomplished on or after the effective date of this AD: Submit the report within 30 days after performing the inspection.

(2) For airplanes on which the inspection specified in paragraph (g) of this AD is accomplished before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1137; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

### (j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0091, dated May 26, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8430.

### (k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Fokker Service Bulletin SBF100–27–095, dated April 22, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 11, 2016.

**Suzanne Masterson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–11930 Filed 5–25–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–4815; Directorate Identifier 2015–NM–112–AD; Amendment 39–18522; AD 2016–10–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2015–03–06 for all Airbus Model A330–200, A330–200 Freighter, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2015–03–06 required repetitive inspections of the left-hand (LH) and right-hand (RH) wing main landing gear (MLG) rib 6 aft bearing lugs (forward and aft) to detect any cracks on the two lugs, and replacement if necessary. This new AD requires reduction of certain compliance times. This AD was prompted by reports of additional cracking of the MLG rib 6 aft bearing lugs. We are issuing this AD to detect and correct cracking of the MLG rib 6 aft bearing lugs, which could result in collapse of the MLG upon landing.

**DATES:** This AD is effective June 30, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 30, 2016.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of March 25, 2015 (80 FR 8511, February 18, 2015).

**ADDRESSES:** For service information identified in this final rule, contact

Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4815.

*Examining the AD Docket*

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4815; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–03–06, Amendment 39–18102 (80 FR 8511, February 18, 2015) ("AD 2015–03–06"). AD 2015–03–06 applied to all Airbus Model A330–200, A330–200 Freighter, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. The NPRM published in the **Federal Register** on November 19, 2015 (80 FR 72398) ("the NPRM"). The NPRM was prompted by reports of additional cracking of the MLG rib 6 aft bearing lugs. The NPRM proposed to continue to require repetitive inspections of the LH and RH wing MLG rib 6 aft bearing lugs (forward and aft) to detect any cracks on the two lugs at a more restrictive initial inspection threshold with a grace period for airplanes that have already exceeded the new threshold; and replacement, if necessary. We are issuing this AD to detect and correct cracking of the MLG rib 6 aft bearing lugs, which could result in collapse of the MLG upon landing.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0120, dated June 26, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Airbus Model A330–200, A330–200 Freighter, A330–300, A340–200, A340–300, A340–500, and A340–600 series airplanes. The MCAI states:

> During Main Landing Gear (MLG) lubrication, a crack was visually found in the MLG rib 6 aft bearing forward lug on one A330 in-service aeroplane. The crack had extended through the entire thickness of the forward lug at approximately the 4 o'clock position (when looking forward). It has been determined that a similar type of crack can develop on other aeroplane types that are listed in the Applicability paragraph.
>
> This condition, if not detected and corrected, could affect the structural integrity of the MLG attachment.
>
> To address this situation, Airbus issued inspection Service Bulletin (SB) A330–57–3096, SB A340–57–4104 and SB A340–57–5009 to provide instructions for repetitive inspections of the gear rib lugs.
>
> Prompted by these findings, EASA issued Emergency AD 2006–0364–E to require repetitive detailed visual inspections of the Left Hand (LH) and Right Hand (RH) wing MLG rib 6 aft bearing lugs.
>
> Later, EASA issued AD 2007–0247–E, which superseded [EASA] AD 2006–0364–E, to:
>
> —expand the Applicability to all A330 and A340 aeroplanes, because the interference fit bushes cannot be considered as a terminating action, owing to unknown root cause; and
>
> —add a second parameter quoted in flight hours (FH) to the inspection interval in order to reflect the aeroplane utilisation in service.
>
> EASA AD 2007–0247–E was revised to correct a typographical error.
>
> Since the first crack finding and issuance of the inspection SBs and related ADs, six further cracks were reported.
>
> Consequently, EASA issued AD 2013–0271 [which corresponds to FAA AD 2015–03–06, Amendment 39–18102 (80 FR 8511, February 18, 2015)], which retained the requirements of [EASA] AD 2007–0247R1–E, which was superseded, and expanded the Applicability of the [EASA] AD to the newly certified models A330–223F and A330–243F. That [EASA] AD also reduced the inspection threshold(s) to reflect the updated risk assessment and in-service experience.
>
> Since this [EASA] AD was issued, a new occurrence of crack finding was reported. Further analysis resulted in the need to reduce the threshold of the initial inspection.
>
> Prompted by this finding, Airbus issued SB A330–57–3096 Revision 06 to introduce a more restrictive initial inspection threshold and a grace period for aeroplanes which have already passed the new threshold.
>
> For the reasons described above, this [EASA] AD partially retains the requirements of EASA AD 2013–0271, which is superseded, and introduces reduced initial inspection thresholds.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4815.

## Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM and the FAA's response to the comment.

### Request To Reference Unpublished Service Information That Terminates Repetitive Inspections

American Airlines requested that we add a paragraph to the proposed AD that references new service information that would terminate the proposed repetitive inspections. The commenter stated that an Airbus retrofit information letter was published indicating that Airbus plans to release new service information that will terminate the mandatory repetitive inspections required by AD 2015–03–06.

We do not agree because the new service information is not yet released. In an AD, we cannot refer to service information that does not exist because doing so violates Office of the Federal Register (OFR) regulations for approval of materials incorporated by reference in rules. To allow operators to use service information issued after publication of an AD, either we must supersede the AD to reference specific service information, or operators must request approval to use the new service information as an alternative method of compliance with the AD under the provisions of paragraph (k) of this AD. We have not revised this AD in this regard.

## Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

## Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A330–57–3096, Revision 06, dated May 29, 2015. The service information describes procedures for detailed inspections to detect any cracking on the forward and aft lugs of the LH and RH wing MLG Rib 6. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

## Costs of Compliance

We estimate that this AD affects 101 airplanes of U.S. registry.

The actions required by AD 2015–03–06, and retained in this AD take about 2 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that were required by AD 2015–03–06 is $170 per product.

The new requirement (reduced compliance time) of this AD adds no additional economic burden.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

## Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

## Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–03–06, Amendment 39–18102 (80 FR 8511, February 18, 2015), and adding the following new AD:

**2016–10–11 Airbus:** Amendment 39–18522; Docket No. FAA–2015–4815; Directorate Identifier 2015–NM–112–AD.

### (a) Effective Date

This AD is effective June 30, 2016.

### (b) Affected ADs

This AD replaces AD 2015–03–06, Amendment 39–18102 (80 FR 8511, February 18, 2015) ("AD 2015–03–06").

### (c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; and Model A340–211, –212, –213 –311, –312, –313, –541, and –642 airplanes; certificated in any category; all manufacturer serial numbers.

### (d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

### (e) Reason

This AD was prompted by reports of cracking of the main landing gear (MLG) rib 6 aft bearing forward lug. We are issuing this AD to detect and correct cracking of the MLG rib 6 aft bearing lugs, which could result in collapse of the MLG upon landing.

### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

### (g) Inspections

At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Do a detailed inspection for cracking of the left-hand and right-hand wing MLG rib 6 aft bearing lugs (forward and aft), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–57–3096, Revision 06, dated May 29, 2015 (for Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes); Airbus Service Bulletin A340–57–4104, Revision 04, dated October 17, 2013 (for Model A340–211, –212, –213, –311, –312, –313 airplanes); or Airbus Service Bulletin A340–57–5009, Revision 03, dated October 17, 2013 (for Model A340–541 and –642 airplanes).

(1) Within 24 months or 2,000 flight cycles, whichever occurs first since airplane first flight or since the last MLG support rib replacement, as applicable.

(2) Within 30 days after the effective date of this AD.

### (h) Repetitive Inspections

Repeat the inspection required by paragraph (g) of this AD thereafter at the time specified in paragraphs (h)(1) through (h)(7) of this AD, as applicable.

(1) For Model A330–201, –202, –203, –223, and –243 airplanes: Repeat the inspections at intervals not to exceed 300 flight cycles or 1,500 flight hours, whichever occurs first.

(2) For Model A330–223F and –243F airplanes: Repeat the inspections at intervals not to exceed 300 flight cycles or 900 flight hours, whichever occurs first.

(3) For Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes: Repeat the inspections at intervals not to exceed 300 flight cycles or 900 flight hours, whichever occurs first.

(4) For Model A340–211, –212, and –213 airplanes: Repeat the inspections at intervals not to exceed 200 flight cycles or 800 flight hours, whichever occurs first.

(5) For Model A340–311 and –312 airplanes; and Model A340–313 airplanes (except weight variant (WV) 27): Repeat the inspections at intervals not to exceed 200 flight cycles or 800 flight hours, whichever occurs first.

(6) For Model A340–313 (only WV27) airplanes: Repeat the inspections at intervals not to exceed 200 flight cycles or 400 flight hours, whichever occurs first.

(7) For Model A340–541 and –642 airplanes: Repeat the inspections at intervals not to exceed 100 flight cycles or 500 flight hours, whichever occurs first.

### (i) Corrective Action

If any crack is found during any inspection required by paragraph (g) or (h) of this AD: Before further flight, replace the cracked MLG support rib using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design

Organization Approval (DOA). Replacement of an MLG support rib does not terminate the repetitive inspections required by paragraph (h) of this AD.

**(j) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraphs (j)(1) through (j)(15) of this AD.

(1) Airbus Service Bulletin A330–57A3096, dated December 5, 2006, which was incorporated by reference in AD 2007–03–04, Amendment 39–14915 (72 FR 4416, January 31, 2007) ("AD 2007–03–04").

(2) Airbus Service Bulletin A330–57A3096, Revision 01, dated April 18, 2007, which is not incorporated by reference in this AD.

(3) Airbus Service Bulletin A330–57–3096, Revision 02, dated August 13, 2007, which was incorporated by reference in AD 2007–22–10, Amendment 39–15246 (72 FR 61796, November 1, 2007; corrected November 16, 2007 (72 FR 64532)) ("AD 2007–22–10").

(4) Airbus Service Bulletin A330–57–3096, Revision 03, dated October 24, 2012, which is not incorporated by reference in this AD.

(5) Airbus Service Bulletin A330–57–3096, Revision 04, dated February 6, 2013, which is not incorporated by reference in this AD.

(6) Airbus Service Bulletin A330–57–3096, Revision 05, dated October 17, 2013, which was incorporated by reference in AD 2015–03–06.

(7) Airbus Service Bulletin A340–57A4104, dated December 5, 2006, which was incorporated by reference in AD 2007–03–04.

(8) Airbus Service Bulletin A340–57–4104, Revision 01, dated August 13, 2007, which is not incorporated by reference in this AD.

(9) Airbus Service Bulletin A340–57–4104, Revision 02, dated September 5, 2007, which was incorporated by reference in AD 2007–22–10.

(10) Airbus Service Bulletin A340–57–4104, Revision 03, dated October 24, 2012, which is not incorporated by reference in this AD.

(11) Airbus Service Bulletin A340–57A5009, dated December 5, 2006, which was incorporated by reference in AD 2007–03–04.

(12) Airbus Service Bulletin A340–57–5009, Revision 01, dated August 13, 2007, which was incorporated by reference in AD 2007–22–10.

(13) Airbus Service Bulletin A340–57–5009, Revision 02, dated October 24, 2012, which is not incorporated by reference in this AD.

(14) Airbus Alert Operators Transmission A57L005–14, dated July 15, 2014, which is not incorporated by reference in this AD.

(15) Airbus Alert Operators Transmission A57L005–14, Revision 01, dated August 20, 2014, which is not incorporated by reference in this AD.

**(k) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(l) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0120, dated June 26, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4815.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(5) and (m)(6) of this AD.

**(m) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on June 30, 2016.

(i) Airbus Service Bulletin A330–57–3096, Revision 06, dated May 29, 2015.

(ii) Reserved.

(4) The following service information was approved for IBR on March 25, 2015 (80 FR 8511, February 18, 2015).

(i) Airbus Service Bulletin A340–57–4104, Revision 04, dated October 17, 2013.

(ii) Airbus Service Bulletin A340–57–5009, Revision 03, dated October 17, 2013.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 12, 2016.

**Suzanne Masterson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–11931 Filed 5–25–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2016–6892; Directorate Identifier 2016–NM–057–AD; Amendment 39–18529; AD 2016–11–02]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This AD requires a detailed visual inspection of the upper and lower engine pylons for protruding, loose, or missing fasteners; and repair, including applicable related investigative and corrective actions, if necessary. This AD was prompted by reports of loose or

missing Hi-Lite fasteners on the upper and lower engine pylon structure common to the upper and lower pylon skin panels and engine thrust fitting. We are issuing this AD to detect and correct protruding, loose, or missing fasteners, which could result in structural failure of the engine pylons.

**DATES:** This AD becomes effective June 10, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 10, 2016.

We must receive comments on this AD by July 11, 2016.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal: Go to http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6892.

### *Examining the AD Docket*

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6892; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

**SUPPLEMENTARY INFORMATION:**

## Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–10, dated April 27, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

> There have been several reported findings of loose or missing Hi-Lite fasteners on the left hand (LH) and right hand (RH) upper and lower engine pylon structure common to the upper and lower pylon skin panels and engine thrust fitting. Missing fasteners in these areas are shown to significantly reduce the safety margins and could result in a structural failure of the engine pylon.
>
> Bombardier has issued a new Aircraft Maintenance Manual (AMM) task for detailed inspection of the engine pylon rib and skin fasteners to inspect for protruding, loose or missing fasteners and rectify any discrepancies [repair including applicable related investigative and corrective actions] noted in accordance with a Repair Engineering Order (REO).
>
> This AD is issued to mandate a repeat inspection to mitigate the risk of a structural failure of the engine pylons and repair any loose or missing fasteners as required.

Related investigative actions include visual inspections for cracks. Corrective actions include repair. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6892.

## Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Repair Engineering Order 670–54–51–034, "Repair for Missing or Loose/Protruding Fasteners in Upper and Lower Pylon Skins FS 1088–FS 1098, PBL 69.3 L & RHS," dated March 7, 2016. The service information describes procedures for repair, including applicable related investigative and corrective actions.

We also reviewed Bombardier Temporary Revision 54–0007, dated March 8, 2016, to the CRJ700/900/1000 AMM. The service information describes procedures for a detailed visual inspection for protruding, loose, or missing fasteners of the left-hand and right-hand upper and lower engine pylons.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

## FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of this same type design.

## FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because loose or missing Hi-Lite fasteners on the upper and lower engine pylon structure common to the upper and lower pylon skin panels and engine thrust fitting could result in structural failure of the engine pylons. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–6892; Directorate Identifier 2016–NM–057–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

## Costs of Compliance

We estimate that this AD affects 531 airplanes of U.S. registry.

We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $45,135, or $85 per product.

In addition, we estimate that any necessary follow-on actions will take up to 32 work-hours for a cost of $2,720 per product, plus the cost of parts. We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD. We have no way of determining the number of aircraft that might need this action.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all available costs in our cost estimate.

## Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

## Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2016–11–02 Bombardier, Inc.:** Amendment 39–18529. Docket No. FAA–2016–6892; Directorate Identifier 2016–NM–057–AD.

### (a) Effective Date

This AD becomes effective June 10, 2016.

### (b) Affected ADs

None.

### (c) Applicability

This AD applies to all the airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category.

(1) Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes.

(2) Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) airplanes.

(3) Bombardier, Inc. Model CL–600–2D24 (Regional Jet Series 900) airplanes.

(4) Bombardier, Inc. Model CL–600–2E25 (Regional Jet Series 1000) airplanes.

### (d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

### (e) Reason

This AD was prompted by reports of loose or missing Hi-Lite fasteners on the upper and lower engine pylon structure common to the upper and lower pylon skin panels and engine thrust fitting. We are issuing this AD to detect and correct protruding, loose, or missing fasteners, which could result in structural failure of the engine pylons.

### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

### (g) Inspection

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, do a detailed visual inspection for protruding, loose, or missing fasteners of the upper and lower engine pylons, in accordance with Bombardier Temporary Revision (TR) 54–0007, dated March 8, 2016, to the CRJ700/900/1000 Aircraft Maintenance Manual. Repeat the inspection thereafter at intervals not to exceed 1,500 flight hours.

(1) For airplanes that have accumulated more than 840 total flight hours as of the effective date of this AD: Inspect within 660 flight hours or 3 months, whichever occurs first, after the effective date of this AD.

(2) For airplanes that have accumulated 840 total flight hours or less as of the effective date of this AD: Inspect before the accumulation of 1,500 total flight hours.

### (h) Repair

If any protruding, loose, or missing fastener is found during any inspection required by paragraph (g) of this AD, before further flight, repair, including applicable related investigative and corrective actions, in accordance with Bombardier Repair Engineering Order (REO) 670–54–51–034, "Repair for Missing or Loose/Protruding Fasteners in Upper and Lower Pylon Skins FS 1088–FS 1098, PBL 69.3 L & RHS," dated March 7, 2016, except where Bombardier REO 670–54–51–034, "Repair for Missing or loose/Protruding Fasteners in Upper and Lower Pylon Skins FS 1088–FS 1098, PBL 69.3 L & RHS," dated March 7, 2016, specifies to contact Bombardier for further instruction, before further flight, repair using a method approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

### (i) Credit for Previous Actions

This paragraph provides credit only for the initial inspection specified in paragraph (g) of this AD, if that action was performed before the effective date of this AD using Bombardier Reference Instruction Letter 4212, dated December 23, 2015; or Bombardier Reference Instruction Letter 4212A, Revision A, dated January 28, 2016. This service information is not incorporated by reference in this AD.

### (j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO,

ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

### (k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–10, dated April 27, 2016, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6892.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

### (l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Repair Engineering Order 670–54–51–034, "Repair for Missing or Loose/Protruding Fasteners in Upper and Lower Pylon Skins FS 1088–FS 1098, PBL 69.3 L & RHS," dated March 7, 2016.

(ii) Bombardier Temporary Revision 54–0007, dated March 8, 2016, to the CRJ700/900/1000 Aircraft Maintenance Manual.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 17, 2016.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–12157 Filed 5–25–16; 8:45 am]

BILLING CODE 4910–13–P

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

### RIN 3235–AL19

### [Release No. 34–77874; File No. S7–30–11]

## Retail Foreign Exchange Transactions

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Expiration of regulation.

**SUMMARY:** Rule 15b12–1, by its terms, will expire and no longer be effective on July 31, 2016. Interested persons should be aware that as of that date, any broker or dealer, including a broker or dealer that is also dually registered as a futures commission merchant ("BD/FCM"), shall be prohibited under the Commodity Exchange Act ("CEA") from offering or entering into a transaction described in the CEA with a person who is not an eligible contract participant ("retail forex transaction").

**DATES:** May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Paula Jenson, Deputy Chief Counsel; Catherine Moore, Senior Special Counsel; or Stephen J. Benham, Special Counsel, at (202) 551–5550 or Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

**SUPPLEMENTARY INFORMATION:** Section 2(c)(2)(E) of the CEA, as added by the Dodd-Frank Wall Street Reform and Consumer Protection Act, provides that a person for which there is a Federal regulatory agency, including a broker-dealer registered under Section 15(b) (except pursuant to paragraph (11) thereof) or 15C of the Securities and Exchange Act of 1934 ("Exchange Act"), shall not enter into or offer to enter into a retail forex transaction, except pursuant to a rule or regulation of a Federal regulatory agency allowing the transaction under such terms and conditions as the Federal regulatory agency shall prescribe.[1]

Section 2(c)(2)(E) of the CEA took effect on July 16, 2011. As of that date, broker-dealers, including broker-dealers also registered with the Commodity Futures Trading Commission as futures commission merchants, for which the Commission is the federal regulatory agency could no longer engage in retail forex transactions except pursuant to a rule adopted by the Commission.[2]

A retail forex transaction includes an agreement, contract, or transaction in foreign currency that is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Exchange Act) that is offered to, or entered into with, a person that is not an eligible contract participant as defined in section 1(a)(18) of the CEA.[3] Certain foreign exchange transactions are not "retail forex transactions" under the CEA, even where one of the counterparties is a person that is not an eligible contract participant. These transactions include:[4] (i) "spot forex transactions" where one currency is bought for another and the two currencies are exchanged within two days;[5] (ii) forward contracts that create an enforceable obligation to make or take delivery, provided that each counterparty has the ability to deliver and accept delivery in connection with its line of business; and (iii) options that are executed or traded on a national securities exchange registered pursuant to section 6(a) of the Exchange Act.

The term "eligible contract participant" is defined in Section 1a(18) of the CEA and, in general terms, comprises certain enumerated regulated persons, entities that meet a specified total asset test or an alternative monetary test coupled with a nonmonetary component, certain employee benefit plans, and certain government entities and individuals that meet defined thresholds.[6] An individual is an eligible contract participant if the individual has aggregate amounts invested on a discretionary basis of more than $10 million or more than $5 million if such individual enters into the transaction to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred by such individual.[7]

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[1] 7 U.S.C. 2(c)(2)(E).

[2] *See* 7 U.S.C. 2(c)(2)(B)(i)(II)(cc) and 2(c)(2)(E). Congress expressly excludes from the CFTC's jurisdiction retail forex transactions where the counterparty, or the person offering to be the counterparty, is a broker or dealer registered under Section 15(b) (other than paragraph (11) thereof) or 15C of the Exchange Act.

[3] 7 U.S.C. 2(c)(2)(B)(i)(I).

[4] *See, generally,* the discussion in Exchange Act Release No. 69964 (Jul. 11, 2013), 78 FR 42439 (Jul. 16, 2013) at 42439–40.

[5] In August 2012, the CFTC issued an interpretation in a joint rulemaking with the Commission that "conversion trades"—trades in which a foreign exchange transaction facilitates the settlement of a foreign security transaction—are spot transactions and, therefore, are not subject to the prohibition under the CEA. *See* Exchange Act Release No. 67453 (Jul. 18, 2012), 77 FR 48207 (Aug. 13, 2012).

[6] *See* 7 U.S.C. 1a(18). The Commission and the CFTC adopted rules under the CEA that further define "eligible contract participant" with respect

The Commission adopted Rule 15b12–1 (17 CFR 240.15b12–1) on a time-limited basis to permit a registered broker-dealer to engage in a retail forex business.[8] The Commission is taking no further action, and pursuant to Rule 15b12–1(d), Rule 15b12–1 will expire and no longer be effective on July 31, 2016. Upon expiration of the rule on July 31, 2016, a broker-dealer registered pursuant to Section 15(b) of the Exchange Act, including an entity that is registered as both a broker-dealer and a futures commission merchant, shall be prohibited from offering or entering into a retail forex transaction pursuant to Section 2(c)(2)(E) of the CEA.

By the Commission.

Dated: May 20, 2016.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–12390 Filed 5–25–16; 8:45 am]

**BILLING CODE 8011–01–P**

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to transactions with major swap participants, swap dealers, major security-based swap participants, security-based swap dealers, and commodity pools. *See* Exchange Act Release No. 66868 (Apr. 27, 2012), 77 FR 30596 (May 23, 2012).

[7] 7 U.S.C. 1a(18)(A)(xi).

[8] *See* Exchange Act Release No. 69964 (Jul. 11, 2013), 77 FR 42439 (Jul. 16, 2013). By its terms, Rule 15b12–1 expires on July 31, 2016. The Commission previously adopted Rule 15b12–1 as an interim final temporary rule, and extended it once on July 11, 2012. *See* Exchange Act Release Nos. 64874 (Jul. 13, 2011), 76 FR 41676 (Jul. 15, 2011) and 67405 (Jul. 11, 2012), 77 FR 41671 (Jul. 16, 2012).

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 35

**[Docket No. RM14–14–001; Order No. 816–A]**

## Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule; Order on rehearing and clarification.

**SUMMARY:** The Federal Energy Regulatory Commission is denying requests for rehearing and granting, in part, clarification of its determinations in Order No. 816, which amended its regulations that govern market-based rate authorizations for wholesale sales of electric energy, capacity, and ancillary services by public utilities pursuant to the Federal Power Act.

**DATES:** This rule will become effective July 25, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Greg Basheda (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6479.

Carol Johnson (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8521.

**SUPPLEMENTARY INFORMATION:**

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## Order No. 816–A

*Order on Rehearing and Clarification*

### I. Introduction

1. On October 16, 2015, the Federal Energy Regulatory Commission (Commission) issued Order No. 816,[1] which amended its regulations that govern market-based rate authorizations for wholesale sales of electric energy, capacity, and ancillary services by public utilities pursuant to the Federal Power Act (FPA). In this order, we address requests for rehearing and clarification of Order No. 816.[2]

2. Nine requests for rehearing and clarification were filed.[3] The requests for rehearing and clarification concern

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[1] *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 816, FERC Stats. & Regs. ¶ 31,374 (2015) (Final Rule).

[2] Order No. 816 became effective on January 28, 2016. On December 23, 2015, upon consideration of requests for a stay of the corporate organizational chart requirement, the Commission issued an order granting an extension of time such that market-based rate applicants and sellers would not be required to comply with the corporate organizational chart requirement prior to the issuance of an order on the merits of the requests for rehearing. *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, 153 FERC ¶ 61,337 (2015).

[3] The requests for rehearing and clarification were filed by the following entities: EDF Renewable Energy, Inc. and E.ON Climate & Renewables North America LLC (IPP Developers); Edison Electric Institute (EEI); Electric Power Supply Association (EPSA); Invenergy Thermal Development LLC and Invenergy Wind Development LLC (Invenergy); National Hydropower Association (NHA); NextEra Energy, Inc. (NextEra); Southern California Edison Company (SoCal Edison); Southern Company Services, Inc. (Southern); and Transmission Access Policy Study Group (TAPS).

the following topics: Sellers with fully committed long-term generation capacity; the reporting of long-term firm purchases; the definition or duration of long-term firm transmission reservations; notices of change in status; new affiliation and behind-the-meter generation; corporate organizational charts; and waiver of Part 101 of the Commission's regulations.[4]

3. In this order, in most respects, we affirm the Commission's determinations made in Order No. 816. However, regarding some issues, we provide clarification.

4. Specifically, as discussed further below, we deny rehearing regarding the requirement to include the expiration date of the contract when a seller claims that its capacity is fully committed. To the extent that the expiration date is not known at the time a seller files for market-based rate authority, we confirm that a subsequent filing to report the contract expiration date will be treated as an informational filing rather than as an amendment to a pending application.

5. We grant clarification regarding the requirement for applicants within a regional transmission organization or independent system operator (RTO/ISO) market to report all long-term firm energy and capacity purchases from generation capacity located within the RTO/ISO market if the generation is designated as a resource with capacity obligations. We clarify that this requirement does not apply if the generation is from a qualifying facility exempt from section 205 of the FPA. In addition, we affirm that a market-based rate seller must list all of its long-term firm power purchases in its asset appendix, Appendix B, even if it does not have market-based rate authority in its home balancing authority area.

6. We clarify that the Commission did not intend to change the definition of long-term firm transmission reservations in Order No. 816 and clarify that long-term firm transmission reservations are longer than 28 days.

7. Regarding the Commission's 100 megawatt (MW) threshold for the requirement to report new affiliations, we affirm the determinations made in Order No. 816 but clarify which markets would be a seller's relevant geographic market for purposes of the 100 MW threshold reporting requirement. We also deny a rehearing request to find that capacity in first-tier markets[5] be included for determining the 100 MW change in status threshold.

8. We affirm the Commission's determination in Order No. 816 that sellers are not required to include behind-the-meter generation in the 100 MW change in status threshold, the 500 MW Category 1 seller status threshold, or to include such generation in the asset appendices and indicative screens.

9. Additionally, we clarify that a hydropower licensee that otherwise sells power only at market-based rates will not be subject to the full requirements of the Uniform System of Accounts as a consequence of filing a cost-based reactive power tariff with the Commission, and may satisfy the requirements in Part 101 of the Commission's regulations by complying with General Instruction 16 of the Uniform System of Accounts.

10. We also provide clarification regarding other aspects of the Final Rule, including revisions to regulatory text and instructions in the asset appendix to ensure consistency with the Commission's determinations in the Final Rule.

11. Further, as discussed below, we grant an additional extension of time such that market-based rate applicants and sellers will not be required to comply with the corporate organizational chart requirement until the Commission issues an order at a later date.

## II. Discussion

### *A. Sellers With Fully Committed Long-Term Generation Capacity*

#### 1. Final Rule

12. In Order No. 816, the Commission clarified that sellers may explain that their generation capacity in the relevant geographic market (including first-tier markets) is fully committed, in lieu of submitting indicative screens, in order to satisfy the Commission's market-based rate requirements regarding horizontal market power in instances where all generation owned or controlled by a seller and its affiliates in the relevant balancing authority areas or markets (including first-tier markets) is fully committed. The Commission clarified that to qualify as fully committed, a seller must commit the capacity to a non-affiliated buyer so that none of it is available to the seller or its affiliates for one year or longer. The Commission also adopted the proposal that sellers claiming that all of their relevant capacity is fully committed must provide the following information: the amount of generation capacity that is fully committed, the names of the counterparties, the length of the long-term contract, the expiration date of the contract, and a representation that the contract is for firm sales for one year or longer.[6]

13. In response to NextEra's concern that at the time a seller files for market-based rate authority, the expiration date may be unknown, the Commission stated that if a contract expiration date is unknown at the time of the market-based rate filing, the seller must, within 30 days of the date becoming known, submit an informational filing, in the docket in which the seller was granted market-based rate authorization, to inform the Commission of the contract expiration date. In response to another commenter's remark that the expiration date is reported separately in electric quarterly report (EQR) filings, the Commission noted that many contracts reported in EQR filings do not include expiration dates and determined that it would require expiration date information in order to show that generation capacity is fully committed.[7]

#### 2. Requests for Rehearing

14. NextEra requests rehearing of the Commission's determination concerning sellers with fully committed long-term generation capacity, stating that the Commission erred in requiring a market-based rate seller to report the expiration date of a long-term contract to the Commission within 30 days of the date being known, rather than simply in an EQR filing.[8] NextEra contends that the Commission erred by failing to set forth an explanation of the specific after-the-fact need for the contract expiration date, as the seller is also required to provide the length of the long-term contract in order to demonstrate that it has no uncommitted capacity.[9] NextEra states that if the Commission concludes that there is an actual need for this information given that after-the-fact reporting means that the expiration date can only be used in an *ex post* analysis, the Commission should clarify that it will permit sellers to provide the information to the Commission either through an EQR submission or on an after-the-fact basis.[10] NextEra states that to the extent that a seller informs the Commission of the contract expiration date within 30 days of the date becoming known, the Commission should clarify that it will treat such filings as informational filings rather

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[4] 18 CFR pt. 101 (2015).

[5] We clarify that for purposes of this order, the term "first-tier markets" includes all first-tier areas, whether they are a balancing authority area or an RTO/ISO market.

[6] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 39.

[7] *Id.* P 44.

[8] NextEra Rehearing Request at 2.

[9] *Id.* at 12.

[10] *Id.* at 13.

than as amendments to pending applications.[11]

### 3. Commission Determination

15. The Commission stated in Order No. 816 that sellers claiming that capacity is fully committed must provide, among other things, the length of the long-term contract and the expiration date of the contract. The same information must be provided for long-term firm sales of affiliated generation capacity located in the relevant balancing authority areas or markets, including first-tier markets. Including this information in the record of a seller's market-based rate filing is necessary so that a seller's claims of fully committed capacity can be verified as needed.

16. In Order No. 816, the Commission addressed comments submitted by NextEra regarding contract expiration dates. In consideration of NextEra's contention that the expiration date may be unknown at the time a seller files for market-based rate authority,[12] the Commission determined that, in such instances, the seller must follow up with an informational filing to inform the Commission of the contract expiration date, within 30 days of the date becoming known.[13]

17. In its request for rehearing, NextEra questions the necessity of requiring the expiration date given that sellers are required to provide the length of the contract. We continue to believe that the expiration date is an important piece of information for sellers to provide. The expiration date provides the Commission with a specific date as to when the affected generation capacity may become uncommitted and the expiration date allows the Commission to verify the information previously provided by the seller for purposes of the Commission's *ex ante* analysis of the seller's potential market power. With regard to NextEra's argument that the Commission erred in requiring the market-based rate seller to report the expiration date of a contract to the Commission within 30 days of the date being known, rather than in an EQR filing, we note that, as the Commission stated in Order No. 816, many contracts reported in EQR filings do not include expiration dates.[14] Finally, consistent with Order No. 816, we grant NextEra's request that the Commission clarify that filings reporting contract expiration dates in support of a seller's claim that capacity is fully committed will be treated as informational filings rather than as amendments to filings.[15]

## *B. Reporting of Long-Term Firm Purchases*

### 1. Final Rule

18. The Commission adopted the proposal to report in the indicative screens long-term firm purchases of capacity and/or energy that have an associated long-term firm transmission reservation. The Commission stated that requiring applicants under the market-based rate program to report all of their long-term firm purchases of energy and/or capacity, regardless of whether the applicant has operational control of the generation capacity supplying the purchased power, will improve the accuracy of the indicative screens.[16] The Commission stated that long-term firm power purchase agreements that are reported in the indicative screens also should be reported in the asset appendix, Appendix B, and created a separate sheet in Appendix B specifically for applicants to report all such long-term firm purchases.[17]

19. The Commission stated that the requirement that applicants only include long-term firm power purchase agreements in their indicative screens if they have an associated long-term transmission reservation will not apply within RTO/ISO markets if that RTO/ISO does not have long-term firm transmission reservations or their equivalent. Instead, applicants in such RTO/ISO markets will be required to report all long-term firm energy and/or capacity purchases from generation capacity located within the RTO/ISO market if the generation is designated as a network resource or as a resource with capacity obligations.[18]

### 2. Requests for Rehearing

20. SoCal Edison and NextEra seek clarification with regard to the reporting of long-term firm purchases.

21. SoCal Edison seeks clarification that the requirement to report all long-term firm energy and/or capacity purchases from generation capacity located within the RTO/ISO market if the generation is designated as a resource with capacity obligations does not apply if the generation is a qualifying facility exempt from section 205 of the FPA. SoCal Edison asserts that there is no reason why an applicant that holds a long-term contract with a qualifying facility exempt from FPA section 205 should have to report that in the appendix and screens, even if the facility has capacity obligations, when affiliate-owned exempt qualifying facilities would be excluded from the reporting requirement.[19]

22. NextEra seeks clarification related to the necessity of reporting long-term power purchases in the asset appendix, Appendix B, by entities that do not have market-based rate authorization in their balancing authority area and as a result are not required to submit indicative screens.[20] NextEra states that in Order No. 816, the Commission stated that long-term firm power purchase agreements that are reported in the indicative screens also should be reported in the asset appendix. NextEra states that based on this statement, NextEra understands that the Commission will not require the inclusion of long-term power purchase agreements if a seller does not have market-based rate authority in its balancing authority area, but instead makes only cost-based sales.[21] NextEra asks the Commission to confirm that the inclusion of such information is only required for companies that have market-based authority in the relevant geographic market.[22]

### 3. Commission Determination

23. We grant SoCal Edison's requested clarification. Applicants purchasing energy and/or capacity from a qualifying facility that is exempt from section 205 of the FPA under a long-term firm power purchase agreement do not need to include such purchases in their indicative screens or in their asset appendix. In Order No. 816, the Commission determined that qualifying facilities that are exempt from section 205 of the FPA do not need to be reported in the asset appendix or indicative screens.[23] Therefore, to ensure consistency in horizontal market power analyses filed by sellers we clarify that this exemption applies equally to long-term firm power purchases agreements backed by such resources.

24. We reject NextEra's requested clarification. A market-based rate seller must list all of its generation assets in its asset appendix even if it does not have market-based rate authority in its balancing authority area or, indeed, even if its generation is fully committed and it is not submitting any indicative

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[11] *Id.* at 14.

[12] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 38.

[13] *Id.* P 44.

[14] *Id.*

[15] *Id.*

[16] *Id.* P 130.

[17] *Id.* P 139.

[18] *Id.* P 145.

[19] SoCal Edison Rehearing Request at 2.

[20] NextEra Rehearing Request at 2.

[21] *Id.* at 14.

[22] *Id.* at 15.

[23] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 255.

screens. We see no reason to treat long-term firm power purchase agreements differently than other generation capacity. In Order No. 816, the Commission determined that long-term firm power purchase agreements with an associated long-term firm transmission reservation (or that are capacity resources in RTO/ISO markets) must be reported in a seller's indicative screens and asset appendix. Excluding long-term firm power purchase agreements as requested by NextEra would be inconsistent with that policy. In addition, sellers without market-based rate authority in their own balancing authority area typically seek market-based rate authority elsewhere and do so by submitting indicative screens for their first-tier markets. A seller's long-term firm power purchase agreements are a resource that would need to be reflected in the screens for the seller's first-tier markets. Since these agreements are reflected in the screens to the extent that they provide potential exports from a seller's balancing authority area to first-tier markets, they should be included in the seller's asset appendix.

25. We also clarify that the generation capacity associated with a unit-specific long-term contract should be reported in the "Notes" portion of the asset appendix. An example of this will be posted on the Commission's Web site.

### *C. Clarification of the Definition or Duration of Long-Term Firm Transmission Reservations*

#### 1. Final Rule

26. In the Final Rule, the Commission provided clarification on the preparation of simultaneous transmission import limit (SIL) studies. In discussing SIL studies, the Commission declined a request to redefine the applicable duration of long-term firm transmission reservations, stating that it is currently defined as 28 days or longer.[24]

#### 2. Requests for Rehearing

27. Southern states that Order No. 816 appears to erroneously refer to long-term firm transmission reservations as comprising reservations that are 28 days or longer. Southern maintains that this is contrary to precedent indicating that the expectation for entities performing SIL studies was that only transmission reservations with a duration longer than 28 days (*i.e.*, a duration of 29 days and greater) should be considered to be long-term firm reservations.

#### 3. Commission Determination

28. We clarify that the Commission did not intend to change the definition of long-term firm transmission reservations in Order No. 816. We reaffirm prior Commission guidance that short-term reservations are up to one month and long-term reservations are greater than one month.[25] February is the shortest month, which means that long-term firm transmission reservations must be longer than 28 days. Thus, we clarify that long-term firm transmission reservations are longer than 28 days.

### *D. Notices of Change in Status*

#### 1. Final Rule

29. In the Notice of Proposed Rulemaking (NOPR), the Commission proposed to revise the change in status regulations at 18 CFR 35.42 to include a 100 MW threshold for reporting new affiliations. The Commission stated that a market-based rate seller that has a new affiliation would not be required to file a change in status for an affiliation with an entity with generation assets until its new affiliations result in a cumulative net increase of 100 MW or more of nameplate capacity in any relevant geographic market.[26] In the Final Rule, the Commission adopted the proposed changes to the change in status requirements of section 35.42 of the Commission's regulations.[27]

30. In the Final Rule, the Commission stated that the 100 MW threshold applies to each new relevant market (not previously studied) in which a seller and/or its affiliates acquire a cumulative net increase of 100 MW.[28] The Commission clarified that the phrase "any relevant market" refers to a market in which a seller already has generation located and acquires an additional 100 MW or accumulates 100 MW or more in a new market that the seller had not studied previously.[29] The Commission also clarified that the 100 MW threshold does not include generation capacity that can be imported from first-tier markets.[30] The Commission agreed with commenters that generation capacity in first-tier markets should not be treated the same as capacity located in the seller's relevant geographic market/study area.[31]

#### 2. *Requests for Rehearing*

31. IPP Developers request that the Commission make the following three clarifications: (1) If an affiliate of a seller acquires or controls 100 MW of generating capacity (including long-term firm purchases), the seller must submit a notice of change in status report if that 100 MW is located in the same relevant market that was studied as the basis for the seller's grant of market-based rate authority; (2) if an affiliate of the seller acquires or controls 100 MW or more of generating capacity (including long-term firm purchases) in a market that is two tiers away or more, the seller is not required to submit a notice of change in status report; and (3) if an affiliate of the seller acquires or controls 100 MW or more of generating capacity (including long-term firm purchases) in a market that is in the first-tier, the seller is not required to submit a notice of change in status report.[32] IPP Developers state that these three clarification requests appear to be a proper application of the Commission's statements in Order No. 816. IPP Developers conclude that a seller does not have a change in status reporting obligation in regard to an affiliate's generation in first-tier and beyond areas.[33]

32. However, IPP Developers state that the following statement in paragraph 238 of Order No. 816 makes this reporting obligation unclear: "if a seller's affiliate is granted market based rate authority, and that results in 100 MW or more of new generation *in a market*, then the seller will have to file a corresponding change in status." [34] IPP Developers state that "a market" could be any market other than the seller's studied relevant market, *i.e.*, affiliate generation in first-tier or beyond markets.[35] IPP Developers state that this statement appears to say that a seller must file a notice of change in status report regardless of the market in which an affiliate of the seller acquires or controls 100 MW or more of generating capacity.[36]

33. IPP Developers state that if the Commission is not inclined to provide the clarifications above, then IPP Developers request rehearing.[37]

34. TAPS seeks rehearing of the threshold calculation, arguing that

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[24] *Id.* P 197.

[25] *Market-Based Rates for Wholesale Sales of Electric Energy Capacity and Ancillary Services by Public Utilities*, Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 at P 25 (2008).

[26] *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, FERC Stats. & Regs. ¶ 32,702, at P 96 (2014) (NOPR).

[27] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 251.

[28] *Id.* P 231.

[29] *Id.* P 237.

[30] *Id.* P 18.

[31] *Id.* P 229.

[32] IPP Developers Rehearing Request at 1–3.

[33] *Id.*

[34] *Id.* at 3–4 (citing Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 238 (emphasis added)).

[35] *Id.* at 4.

[36] *Id.*

[37] *Id.* at 3.

capacity in first-tier markets should be included for determining changes in the 100 MW change in status threshold.[38] TAPS states that in the NOPR, the Commission proposed to clarify that the "relevant geographic market" for purposes of that 100 MW trigger included generation capacity that could be imported from first-tier markets.[39] TAPS states that the Commission then reversed the NOPR proposal, stating that it would "exclude markets and balancing authority areas that are first-tier to the seller's study area."[40] TAPS states that the Commission erred and should grant rehearing to revise Order No. 816 to include generation in first-tier markets for purposes of change in status reporting, whether or not it is supported by a long-term firm transmission reservation.[41] Specifically, TAPS states that the Commission should require sellers to: (1) Include first-tier capacity when there is a long-term transmission reservation associated with the capacity; and (2) include all other first-tier capacity either in its entirety or, in the alternative, on a *pro rata* basis consistent with the inclusion of such generation in market power screens.[42]

35. TAPS states that the NOPR's proposal to include first-tier generation capacity is both simple and adequate.[43] TAPS states that the Commission could allow sellers, with appropriate support, to prorate generation in markets first-tier to the study area in the same way capacity is assigned pro rata for indicative screen analyses (assuming there are no firm transmission reservations associated with the first-tier capacity, in which case it should be accorded its full megawatt value). TAPS states that this approach would be consistent with the methodology used in the indicative screens, but would require more analysis than reporting of all first-tier capacity for purposes of change in status reports.[44]

3. Commission Determination

36. We grant clarification regarding IPP Developers' three examples of the application of Order No. 816. The scenarios presented by IPP Developers are a proper application of the Final Rule, assuming that the seller is not a power marketer (*i.e.,* the seller owns generation). We also grant clarification regarding the Commission's statement in paragraph 238 of Order No. 816. In paragraph 238 of Order No. 816, the Commission stated that "if a seller's affiliate is granted market-based rate authority, and that results in 100 MW or more of new generation *in a market,* then the seller will have to file a corresponding change in status."[45] We clarify that the phrase "in a market" means any relevant geographic market for the seller at the time of the change in status filing. Further, we note that the relevant geographic market for a particular seller depends on whether the seller is a power producer or a power marketer, whether the seller owns transmission or is interconnected to an affiliated transmission system, and whether the seller's generation is in an RTO/ISO. The relevant markets for a power marketer include any market where the power marketer's affiliates own generation. Thus, a power marketer that does not own any generation itself would need to report a change in status for a 100 MW net increase in any market where an affiliate owns generation and has been granted market-based rate authority.[46] However, for a power producer, the relevant geographic market is where the seller's generation is physically located. Thus, a power producer would not need to report a 100 MW affiliate net increase in a market where the power producer itself does not own any generation. Similarly, in traditional (non-RTO/ISO) markets, the default relevant geographic market is "first, the balancing authority area where the seller is physically located, and second, the markets directly interconnected to the seller's balancing authority area."[47] However, "[w]here a generator is interconnecting to a non-affiliate owned or controlled transmission system, there is one relevant geographic market (*i.e.,* the balancing authority area in which the generator is located)."[48] For a seller located in an RTO/ISO market, the seller may consider the RTO/ISO as the default relevant geographic market.[49] In each circumstance, the market-based rate seller will have to determine whether any 100 MW increase is in a market that would be a relevant geographic market for that seller.

37. We deny TAPS's request that capacity in first-tier markets be included for determining the 100 MW change in status threshold. As the Commission stated in Order No. 816, when a seller has a change in status in a particular market, it does not need to include any changes in adjoining first-tier markets in calculating the 100 MW threshold, even when a purchaser has long-term firm transmission rights to import affiliated capacity located in a first-tier market. We reiterate that, with respect to the calculation of the 100 MW threshold, 100 MW located outside of the study area is not equivalent to 100 MW inside the study area. In addition, requiring sellers to consider generation capacity in first-tier markets, and prorate generation from the first-tier markets into the study area, creates uncertainty as to when a seller would trip the 100 MW threshold and effectively would force a seller to prepare import analyses to determine how much of their additional first-tier capacity could be imported into the study area. We believe that the increased burden of preparing such studies would outweigh the potential benefit gained from receiving additional information about a seller's affiliated generation.

### *E. New Affiliation and Behind-the-Meter Generation*

1. Final Rule

38. As stated above, the Commission adopted the NOPR proposal to establish a 100 MW threshold for reporting new affiliations in change of status filings. The Commission stated that a market-based rate seller that has a new affiliation will not be required to file a change in status for an affiliation with an entity with generation assets until its new affiliations result in a cumulative net increase of 100 MW of capacity in a relevant geographic market.[50] The

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[38] TAPS Rehearing Request at 1.

[39] *Id.* at 4 (citing NOPR, FERC Stats. & Regs. ¶ 32,702 at P 96).

[40] *Id.* at 5 (citing Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 230).

[41] *Id.* at 6.

[42] *Id.* at 5.

[43] *Id.* at 6–7.

[44] *Id.* at 7.

[45] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 238 (emphasis added).

[46] A power marketer with no affiliated generation is a Category 1 seller (exempt from filing triennial updated market power analysis) in all regions and has no relevant geographic market. A power marketer that acquires generation via a long-term power purchase agreement has a relevant geographic market where the power associated with this agreement is delivered (sinks), not where it originates (unless source and sink are in the same market, which is often the case). In this scenario, the power marketer is a Category 1 or 2 seller in the relevant geographic market depending on the MWs associated with the contract(s). Category 2 sellers must submit triennial update market power analyses.

[47] *Market-Based Rates for Wholesale Sales of Electric Energy Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 232 (2007).

[48] *Id.* P 232 n.217.

[49] *Id.* P 235 (noting that a seller may consider the RTO/ISO as the default relevant geographic market "unless the Commission has already found the existence of a submarket").

[50] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 251. The Commission noted that if a seller files a notice of change in status for another reason, *e.g.,* to report the entrance into a power purchase agreement of more than 100 MW, the seller should note that it has a new affiliate with market-based rate authority and include that new affiliate and any related assets in the seller's asset appendix. *Id.* P 251 n.334.

Commission stated that the 100 MW threshold will be determined for each relevant geographic market but will not consider generation capacity additions in first-tier markets.[51]

39. The Commission did not adopt the NOPR proposal to count behind-the-meter generation in the 100 MW change in status threshold and 500 MW Category 1 seller threshold or to include such generation in the asset appendix and indicative screens.[52]

40. The Commission stated that the output of behind-the-meter generation should be reflected in the load data reported in the FERC Form No. 714, which reflects the fact that the load is lower than it otherwise would be if a portion of the load were not served by behind-the-meter generation. The Commission also stated that, since behind-the-meter generation is netted out of the load data, requiring sellers to count behind-the-meter generation as installed capacity could result in double-counting a portion of the seller's generation capacity. The Commission clarified that behind-the-meter generation that is consumed on-site by the host load and not sold into the wholesale market, or is not synchronized to the transmission grid, is not relevant to the Commission's horizontal market power analysis.[53]

### 2. Requests for Rehearing

41. TAPS requests rehearing and/or clarification, arguing that behind-the-meter generation that is available to make wholesale sales and that is not reflected as a reduction in load reported in Form No. 714 should be included in seller reporting obligations, including the 100 MW change in status threshold, the indicative screens, the asset appendix, and the 500 MW Category 1 seller status threshold.

42. Specifically, TAPS states that the Commission should make clear that behind-the-meter generation that is not consumed on-site by the host load and reflected in Form No. 714 load data must, consistent with the Commission's duty to assess market power, be included in seller reporting obligations and indicative screens and category seller status determinations. TAPS contends that generation that participates in the wholesale markets influences a seller's market power regardless of whether it may be termed behind-the-meter.[54] TAPS argues that even if it were otherwise permissible, the exclusion for behind-the-meter generation would be arbitrary and capricious. TAPS states that because Order No. 816 fails to limit the scope of the behind-the-meter exclusion to that included in load reported in Form No. 714 or not synchronized to the grid and provides no definition of behind-the-meter generation, sellers are left to their own devices to determine what is meant by behind-the-meter generation and then to exclude those resources for purposes of reporting under Order No. 816.[55]

43. TAPS states that the Commission should clarify that its exclusion of behind-the-meter generation was intended to be restricted by its clarification at paragraph 253 of the Final Rule—that only generation that is reflected in Form No. 714 or not synchronized would be excludable from generation from market-based rate reporting and market power screens. Alternatively, TAPS states that the Commission should grant rehearing and: (1) Adopt its NOPR proposal to include behind-the-meter generation, with El Paso's clarification—*i.e.,* that behind-the-meter generation that is not reflected as a decrease in load on Form No. 714 should be included in seller reporting obligations and all market power screens; or (2) otherwise avoid creating a behind-the-meter generation blind spot of undefined proportions in its market power monitoring and assessment regimen.[56]

### 3. Commission Determination

44. We deny TAPS's request for rehearing. As the Commission stated in the Final Rule, the output of behind-the-meter generation largely should be reflected in the load data reported in the FERC Form No. 714, which reflects the fact that the load is lower than it otherwise would be if a portion of the load were not served by behind-the-meter generation. Accordingly, since behind-the-meter generation is netted out of the load data, requiring sellers to count behind-the-meter generation as installed capacity could result in double-counting a portion of some sellers' generation capacity. Further, the Commission stated in the Final Rule that behind-the-meter generation not sold into the wholesale market is not relevant to the Commission's horizontal market power analysis. Regarding TAPS's concern about behind-the-meter generation that is available to make wholesale sales and is not reflected in load reported in Form No. 714, we believe, at this time, that this category of generation is relatively limited and that the burden of sellers reporting this behind-the-meter generation would outweigh the benefits of such reporting. Therefore, at this time, we will not require sellers to report this type of generation.

## *F. Corporate Organizational Charts*

### 1. Final Rule

45. In the Final Rule, the Commission adopted the proposal to require a seller to include a corporate organizational chart when filing an initial application for market-based rate authority, an updated market power analysis, or, in some circumstances, a notice of change in status reporting new affiliations.[57] The Commission revised the regulatory text in section 35.37(a)(2) and in section 35.42(c) in this regard.

### 2. Requests for Rehearing

46. Invenergy, SoCal Edison, NextEra, EEI, and EPSA request rehearing and/or clarification with respect to the requirement to submit corporate organizational charts. Parties argue, among other things, that the requirement imposes a substantial administrative burden on filers and is at odds with the objective of streamlining the market-based rate filing process.

### 3. Commission Determination

47. As noted above, upon consideration of requests for a stay of the corporate organizational chart requirement, the Commission issued an order granting an extension of time such that market-based rate applicants and sellers would not be required to comply with the corporate organizational chart requirement prior to the issuance of an order on the merits of the requests for rehearing.[58] Upon consideration of the concerns raised by the parties on rehearing regarding this requirement, we grant an additional extension of time such that market-based rate applicants and sellers will not be required to comply with the corporate organizational chart requirement until the Commission issues an order at a later date addressing this requirement. The extension will allow the Commission more time to fully consider the benefits and burdens associated with the corporate organizational chart requirement.[59]

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[51] *Id.* P 251.

[52] *Id.* P 252.

[53] *Id.* P 253.

[54] TAPS Rehearing Request at 11.

[55] *Id.*

[56] *Id.* at 13.

[57] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 21.

[58] *Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* 153 FERC ¶ 61,337 (2015).

[59] The Commission continues to consider appropriate mechanisms for consolidating the Commission's data collection requirements, including this organizational chart requirement,

### *G. Part 101 Waivers*

1. Final Rule

48. The Commission clarified that granting waiver of 18 CFR part 101 under market-based rate authority does not waive the requirements under Part I of the FPA for hydropower licensees. In addition, the Commission clarified that hydropower licensees that only make sales at market-based rates may satisfy the requirements in Part 101 of the Commission's regulations (Uniform System of Accounts) by complying with General Instruction 16 of the Uniform System of Accounts, and confirmed that hydropower licensees that have Commission-approved cost-based rates are required to comply with the full requirements of the Uniform System of Accounts.[60]

2. Requests for Rehearing

49. NHA requests clarification that a hydropower licensee that otherwise sells power only at market-based rates will not be subject to the full requirements of the Uniform System of Accounts as a consequence of filing a cost-based reactive power tariff with the Commission.[61] Alternatively, NHA requests that the Commission clarify that it will allow licensees that otherwise sell only at market-based rates to request authorization, on a case-by-case basis, to continue to rely on General Instruction 16 of the Uniform System of Accounts at the time a reactive power tariff is filed with the Commission.[62]

50. NHA argues that the Commission determined in Order No. 697 that "little purpose would be served to require compliance with accounting regulations for entities that do not sell at cost-based rates and do not have captive customers." [63] NHA represents that the Commission has previously found that reactive power tariffs do not have captive customers and do not raise the same concerns as other cost-based rate tariffs.[64] Additionally NHA notes that entities with a reactive power tariff and a market-based rate tariff have been previously granted waiver of Part 101.[65]

3. Commission Determination

51. We clarify that a hydropower licensee that otherwise sells power only at market-based rates will not be subject to the full requirements of the Uniform System of Accounts as a consequence of filing a cost-based reactive power tariff with the Commission. Such a seller may satisfy the requirements in Part 101 of the Commission's regulations by complying with General Instruction 16 of the Uniform System of Accounts. We find that this clarification is consistent with previous Commission findings in Order No. 697 and *Sunbury,* as noted by NHA. We continue to find, however, that hydropower licensees that have Commission-approved cost-based rates are required to comply with the full requirements of the Uniform System of Accounts.[66] Additionally, we remind sellers that "previously granted waivers of the accounting requirements will continue to be rescinded where a seller is found to have market power (or where the sellers accepts a presumption of market power) and the seller proposes cost-based rate mitigation or the Commission imposes cost-based rate mitigation." [67]

### *H. Capacity Ratings*

1. Final Rule

52. In the Final Rule, the Commission revised the regulations at 18 CFR 35.42 relating to the change in status reporting requirements to permit sellers to use nameplate or seasonal capacity ratings for the 100 MW threshold for most generation and allow energy-limited generation to use either nameplate or a five-year average capacity factor.[68] The Commission found that solar photovoltaic and solar thermal facilities are energy limited and determined that, due to their unique characteristics, solar photovoltaic facilities, unlike other energy-limited facilities, must use nameplate capacity and may not use five-year average capacity factors.[69]

2. Request for Rehearing

53. Southern notes the Commission's determination in the Final Rule permitted sellers to use nameplate or seasonal capacity ratings for the 100 MW threshold for most generation. Southern states that the regulatory text accompanying the Final Rule includes the phrase "or seasonal" in 18 CFR 35.42(a)(2)(i) but not in 18 CFR 35.42(a)(1). Southern requests that the Commission add the phrase "or seasonal" to 18 CFR 35.42(a)(1) to align with the discussion in the Final Rule.[70]

3. Commission Determination

54. We find that it is appropriate to revise 18 CFR 35.42(a)(1) to add the phrase "or seasonal." Additionally, we are revising both 18 CFR 35.42(a)(1) and (a)(2)(i) to further align the regulations with the discussion in the Final Rule. Specifically, the revised regulations will indicate that the 100 MW or more of capacity should be based on nameplate or seasonal capacity ratings and, for energy-limited resources, with the exception of solar photovoltaic facilities, the capacity ratings should be based on nameplate or five-year average capacity factors. These revised regulations will indicate that for solar photovoltaic facilities, the capacity ratings should be based on nameplate capacity.

### *I. Inputs to Electric Power Production*

1. Final Rule

55. The Commission considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis and, as such, the Commission requires a seller to provide a description of its inputs to electric power production.[71] Section 35.36(a)(4) of the Commission's regulations define inputs to electric power production to mean intrastate natural gas transportation, intrastate natural gas storage or distribution facilities, sites for generation capacity development, physical coal supply sources and ownership of or control over who may access transportation of coal supplies.

56. In the Final Rule, the Commission eliminated the requirement that market-based rate sellers file quarterly land acquisition reports and provide information on sites for generation capacity development in market-based rate applications and triennial updated market power analyses. Specifically, the Commission adopted the proposal to

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with the proposed rulemakings in Docket Nos. RM15–23 and RM16–3.

[60] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 22.

[61] NHA Clarification Request at 3–5.

[62] *Id.* at 5.

[63] *Id.* at 3 (citing Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 984).

[64] *Id.* at 3–4 (citing Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 483 ("concerns underlying the affiliate restrictions do not apply to sales of reactive power because those sales are typically either made to transmission providers so that the transmission provider can satisfy its obligation to provide reactive power or made by the transmission provider under its applicable [open access transmission tariff]")).

[65] *Id.* (citing *Sunbury Generation, LLC,* 108 FERC ¶ 61,160 (2004) (*Sunbury*); *Illinois Power Generating Co.,* 148 FERC ¶ 61,238 (2014) (granting waivers of Parts 41, 101, and 141 of the Commission's regulations to entities with a cost-based rate reactive power tariff and a market-based rate tariff)).

[66] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 22.

[67] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 986.

[68] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 232.

[69] *Id.* P 15.

[70] Southern Rehearing Request at 7 n.15 (citing Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 232).

[71] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 6.

revise the regulations at 18 CFR 35.42 relating to the change in status reporting requirements regarding sites for new generation capacity development and also adopted the proposal to revise the regulations at 18 CFR 35.37 to remove the requirement that sellers provide information regarding sites for generation capacity development to demonstrate a lack of vertical market power. However, no changes to the definition of inputs to electric power production were made in the Final Rule.

#### 2. Commission Determination

57. In light the determinations made in the Final Rule, we revise our regulations at 18 CFR 35.36(a)(4) to remove sites for generation capacity development from the definition of inputs to electric power production. However, we clarify that the affirmative statement regarding barriers to entry required in 18 CFR 35.37(e)(3) continues to cover sites for generation capacity development.

### *J. Transmission/Natural Gas Assets Sheet*

#### 1. Final Rule

58. In the NOPR, the Commission proposed to require any seller that has been granted waiver of the requirement to file an open access transmission tariff (OATT) for its transmission facilities to report in its Transmission/Natural Gas Assets Sheet the citation to the Commission order granting the OATT waiver for those transmission facilities.[72] The Commission did not adopt the NOPR proposal in the Final Rule, agreeing with SoCal Edison that this requirement would not provide useful information in light of Order No. 807.[73] The Commission further stated that, "even if a seller has been granted waiver of the requirement to file an OATT, those transmission facilities should be reported in its asset appendix." [74]

#### 2. Commission Determination

59. Upon further consideration, we modify the requirement to report in the asset appendix transmission facilities that have been granted an individual OATT waiver or that qualify for a blanket waiver under Order No. 807 and find that sellers are no longer required to include such facilities in their Transmission/Natural Gas Assets Sheet. We find that the burden of providing information on such facilities outweighs any benefit to reporting it. For this reason, we eliminate the requirement to report in the Transmission/Natural Gas Assets Sheet facilities that qualify for blanket waiver of the OATT requirement under Order No. 807 and those that have been granted an individual OATT waiver.

### *K. Long-Term Firm Power Purchases List*

#### 1. Final Rule

60. In the Final Rule, the Commission established a new, separate list in the asset appendix in which market-based rate sellers are to report their Long-Term Firm Power Purchase Agreements (PPAs).[75] The Commission agreed with commenters that the format of the Generation Assets Sheet was not well suited for reporting long-term firm purchases.

#### 2. Commission Determination

61. Subsequent to the issuance of Order No. 816, Commission Staff received numerous calls from sellers requesting guidance with respect to completing the Long-Term Firm PPAs Sheet. Upon further consideration, we recognize that certain modifications to this sheet and its instructions are warranted to improve its clarity. To that end, we are making the following changes. First, we are eliminating the existing column B, "Docket # where MBR authority was granted" as this is duplicative of information required elsewhere in the asset appendix. In response to questions as to whether the "Market/Balancing Authority Area" column was referring to the source or sink of the transaction, we are adding a column and specifically requesting sellers to identify both the source and sink of the transaction in separate designated columns. Finally, in response to other questions raised by market-based rate filers, we are adding a column requiring sellers to indicate whether a particular long-term firm purchase agreement is backed by a specific identified generation unit or by the supplier's generation fleet (*i.e.*, a "system" contract). Instructions for the Long-Term Firm PPAs Sheet have been modified to reflect these changes and to make certain other clean up edits.

### *L. Generation Assets Sheet, Rows [B] and [H]*

#### 1. Final Rule

62. The Final Rule contained instructions for completing the asset appendix. The description of Row [B] indicated that, if applicable, sellers should include the docket number where market-based rate or qualifying facility status was originally granted, and that it can be an EL or QF docket number. The description of Row [H] listed the six market-based rate regions but mistakenly listed the Southeast region twice and failed to mention the Northwest region.

#### 2. Commission Determination

63. We revise the instructions for Row [B] of the asset appendix to remove references to EL and QF dockets. This revision does not change the Commission's determinations in Order No. 816. Rather, this revision aligns the description and format information regarding Row [B] with the Commission's intent that Row [B] contain the docket number where market-based rate authority was granted.

64. We revise the instructions to Row [H] of the Generation Assets Sheet to delete the second reference to "Southeast" and replace it with "Northwest."

## III. Information Collection Statement

65. The Office of Management and Budget (OMB) regulations implementing the Paperwork Reduction Act of 1995 [76] require that OMB approve certain information collection requirements imposed by an agency.[77] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

66. The revisions made in Order No. 816 to the information collection requirements for market-based rate sellers were approved under FERC–919 (OMB Control No. 1902–0234).[78] This order clarifies and makes minor revisions to some aspects of the existing information collection requirements for the market-based rate program. The

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[72] NOPR, FERC Stats. & Regs. ¶ 32,702 at P 120.

[73] Order No. 816, FERC Stats. & Regs. ¶ 31,374 at P 300 (citing *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367 (2015) (amending Commission regulations to waive the OATT requirements of section 35.28, the OASIS requirements of Part 37, and the Standards of Conduct requirements of Part 358, under certain conditions, for entities that own interconnection facilities)).

[74] *Id.* P 295 (citing Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 378 ("We clarify that the transmission facilities that we require to be included in that asset appendix are limited to those the ownership or control of which would require an entity to have an OATT on file with the Commission (even if the Commission has waived the OATT requirement for a particular seller).")).

[75] *Id.* P 270.

[76] 44 U.S.C. 3507(d) (2012).

[77] 5 CFR 1320.11.

[78] OMB approved the information collection in Order No. 816 on December 22, 2015.

changes to the information collection include:

- Removing the need to list transmission facilities in the Transmission/Natural Gas Assets Sheet that have an OATT waiver or that qualify for the blanket OATT waiver (a slight burden decrease)
- adding a source/sink column and a column for generation unit/system contract type to the Long-Term Firm PPAs Sheet (slight burden increases)
- removing column B, "Docket # where MBR authority was granted" from the Long-Term Firm PPAs Sheet and removing references to "EL" and "QF" in the instructions for Row [B] of the Generation Assets Sheet (*de minimis* decreases)
- removing sites for generation capacity development from the definition of inputs to electric power production at 18 CFR 35.36(a)(4) (no change to burden).

The Commission estimates that there will be no net change to burden. This Final Rule will be submitted to OMB for review and approval of a "No Material/Nonsubstantive Change."

*Title:* Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities (FERC–919).

*Action:* Clarification and Revision of Currently Approved Collection of Information.

*OMB Control No.:* 1902–0234.

*Respondents for This Rulemaking:* Public utilities, wholesale electricity sellers, businesses, or other for profit and/or not for profit institutions.

67. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873]. Comments concerning the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov.* Comments submitted to OMB should refer to FERC–919 and OMB Control Number 1902–0234.

## IV. Document Availability

68. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

69. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

70. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

## V. Effective Date

71. These regulations are effective July 25, 2016.

## List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Issued: May 19, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

In consideration of the foregoing, the Commission amends Part 35, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

## PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

**Authority:** 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

### § 35.36 [Amended]

■ 2. Amend § 35.36 as follows:

■ a. In paragraph (a)(4), remove the comma and add in its place a semicolon.

■ b. In paragraph (a)(4), remove the phrase "sites for generation capacity development;".

■ 3. Amend § 35.42 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

### § 35.42 Change in status reporting requirement.

(a) * * *

(1) Ownership or control of generation capacity or long-term firm purchases of capacity and/or energy that results in cumulative net increases (*i.e.,* the difference between increases and decreases in affiliated generation capacity) of 100 MW or more of capacity based on nameplate or seasonal capacity ratings, or, for solar photovoltaic facilities, nameplate capacity, or, for other energy-limited resources, nameplate or five-year average capacity factors, in any individual relevant geographic market, or of inputs to electric power production, or ownership, operation or control of transmission facilities; or

(2) * * *

(i) Owns or controls generation facilities or has long-term firm purchases of capacity and/or energy that results in cumulative net increases (*i.e.,* the difference between increases and decreases in affiliated generation capacity) of 100 MW or more of capacity based on nameplate or seasonal capacity ratings, or, for solar photovoltaic facilities, nameplate capacity, or, for other energy-limited resources, nameplate or five-year average capacity factors, in any individual relevant geographic market;

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■ 4. Revise appendix B to subpart H to read as follows:

## Appendix B to Subpart H of Part 35—Corporate Entities and Assets Sample Appendix

BILLING CODE 6717–0–P

**Instructions for completing the Asset Appendix Sheet: Generation Assets**

| Column | Title | Format | Description |
|---|---|---|---|
| [A] | Filing Entity and its Energy Affiliates | Free Form Text | Name of the Filing Entity and its Affiliates. Please use the exact name as in the Company Registration database if possible. |
| [B] | Docket # where MBR authority was granted | Text in the form: ERXX-XXX-XXX where "X" is a digit | If applicable, Docket Number where MBR was originally granted. |
| [C] | Generation Name (Plant or Unit Name) | Free Form Text | Unit Name or if all units in a plant are reasonably similar, a plant name. Use EIA-860 or industry standard names to the extent possible. |
| [D] | Owned By | Free Form Text | Name of the Entity owning the generation unit or plant. Please use the same name as in the Company Registration database if possible. |
| [E] | Controlled By | Free Form Text | Name of the Entity that controls the output of the generation unit or plant. Please use the same name as in the Company Registration database if possible. |
| [F] | Date Control Transferred | MM/YYYY or DD/MM/YY | The date the unit came under the control of the Entity listed in "[E] Controlled By." Often it is the date the generation was acquired or built. |
| [G] | Location: Market/Balancing Authority Area | Free Form Text. For Markets or submarkets please use one of the abbreviations or names in the next column. For balancing authority areas please use the NERC-defined name | One of the six RTO/ISOs (ISO-NE, NYISO, PJM, MISO, SPP, CAISO) or their designated submarkets (PJM-East, 5004/5005, AP South, Connecticut, Southwest Connecticut, New York City, Long Island) or a NERC-defined Balancing Authority Area name. |
| [H] | Location: Geographic Region | Specific Text | One of the six MBR regions: Northeast, Southeast, Central, SPP, Northwest, Southwest. |
| [I] | In-Service Date | MM/YYYY or MM/DD/YY | The date the unit first came into service. |
| [J] | Capacity Rating: Nameplate (MW) | Numeric. Either an integer or fixed width numeric with one decimal | The nameplate capacity rating of the unit, usually provided by the manufacturer, in MWs. |
| [K] | Capacity Rating: Used in Filing (MW) | Numeric. Either an integer or fixed width numeric with one decimal | The capacity rating of the unit(s), in MWs, used in this filing. |
| [L] | Capacity Rating: Methodology Used in [K]: (N)ameplate, (S)easonal, 5-yr (U)nit, 5-yr (E)IA, (A)lternative | | A single capital letter (either "N", "S","U","E", or "A") to designate the rating methodology of the unit's capacity used in this filing. Describe "Alternative" Capacity Rating Method in End Notes Sheet. |
| [M] | End Note Number (Enter text in End Notes Sheet) | Integer | The number of the explanatory note in End Notes Sheet that refers to this entry. The numbers should be ascending integers throughout the appendix. If there are three notes in the Generation Assets Sheet, then the first end note in the next asset sheet should be four (please do not start over with a new numbering sequence). |

### Instructions for completing the Asset Appendix Sheet: Long-Term Firm Power Purchase Agreements (PPA)

| Column | Title | Format | Description |
|---|---|---|---|
| [A] | Filing Entity and its Energy Affiliates | Free Form Text | Name of the Filing Entity or affiliate of the Filing Entity that is purchasing the energy or capacity. |
| [B] | Seller Name | Free Form Text | Name of the Filing Entity that is selling the capacity and/or energy. Please use the exact name as in the Company Registration database if possible. |
| [C] | Amount of PPA (MW) | Numeric. Either an integer or fixed width numeric with one decimal | Contracted amount of the PPA in MW. If the contract is for the entire output of a specific generation unit, you may de-rate the unit using the same de-rating methodology that is used for generators of the same technology elsewhere in the appendix. If this amount is de-rated please explain in the End Notes Sheet. Energy-only contracts must be converted from MWh to MW. Only report contracts one year or longer. |
| [D] | Location:<br>Market/Balancing Authority Area (Source) | Free Form Text. For Markets or submarkets please use one of the abbreviations or names in the next column. For balancing authority areas please use the NERC-defined name | One of the six RTO/ISOs (ISO-NE, NYISO, PJM, MISO, SPP, CAISO) or their designated submarkets (PJM-East, 5004/5005, AP South, Connecticut, Southwest Connecticut, New York City, Long Island) or a NERC-defined Balancing Authority Area name. For "System" PPAs, identify all markets and balancing authority areas from which the PPA is sourced to the extent the source location(s) is specified in the PPA. |
| [E] | Location:<br>Market/Balancing Authority Area (Sink) | Free Form Text. For Markets or submarkets please use one of the abbreviations or names in the next column. For balancing authority areas please use the NERC-defined name | One of the six RTO/ISOs (ISO-NE, NYISO, PJM, MISO, SPP, CAISO) or their designated submarkets (PJM-East, 5004/5005, AP South, Connecticut, Southwest Connecticut, New York City, Long Island) or a NERC-defined Balancing Authority Area name. For all PPAs, identify where the capacity and/or energy is delivered. |
| [F] | Location:<br>Geographic Region (Sink) | Specific Text | Same instruction as the Generation Assets Sheet. |
| [G] | Start Date (mo/da/yr) | MM/DD/YY | The Start Date of the PPA |
| [H] | End Date (mo/da/yr) | MM/DD/YY | The End Date of the PPA |
| [I] | Type of PPA (Unit or System) | "Unit" or "System" | Enter the text "Unit" if the PPA is from a specific unit such as a wind generator selling its output to a utility, or from multiple units at a single plant. Please provide the name of the unit or facility supplying the PPA in the End Notes Sheet. Enter "System" if the PPA is sourced from a utility's or IPP's fleet with different units providing power at different times. |
| [J] | End Note Number (Enter text in End Notes Sheet) | Integer | Same instruction as the Generation Assets Sheet. |

### Instructions for completing the Asset Appendix Sheet: Transmission/Natural Gas Assets

| Column | Title | Format | Description |
|---|---|---|---|
| [A] | Filing Entity and its Energy Affiliates | | Same instruction as the Generation Assets Sheet. |
| [B] | Cite to order accepting OATT or the order approving the transfer of transmission facilities to an RTO or ISO | | Commission cite to the order accepting the Filing Entity's or its Energy Affiliate's current OATT, or the order transferring control of the transmission facilities to an RTO/ISO. |
| [C] | Asset Name and Use | Free Form Text | Legal name of the facility and brief description of the type of facility (i.e. transmission line or gas pipeline). |
| [D] | Owned By | | Name of the Entity owning the transmission/natural gas assets. |
| [E] | Controlled By | | Name of the Entity that controls the transmission/natural gas assets. |
| [F] | Date Control Transferred | | Same instruction as the Generation Assets Sheet. |
| [G] | Market/Balancing Authority Area | | Same instruction as the Generation Assets Sheet. |
| [H] | Geographic Region | | Same instruction as the Generation Assets Sheet. |
| [I] | Size (e.g., length and kV for electric, length and diameter for pipelines, and capacity for gas storage) | Free Form Text | Description of the size of the facility in the measures relevant to the specific type of facility. For example, for electric "Size" refers to the length and kV rating of the transmission line; for gas pipeline "Size" refers to the length and diameter of the pipeline; for gas storage "Size" refers to the capacity of the facility. |
| [J] | End Note Number (Enter text in End Notes Sheet) | | Same instruction as the Generation Assets Sheet. |

| | **Instructions for completing the Asset Appendix Sheet: End Notes** | | |
|---|---|---|---|
| **Column** | **Title** | **Format** | **Description** |
| [A] | End Note Number | Integer | Should match an End Note number in the Generation Assets, Long-Term Firm PPAs or Transmission/Natural Gas Assets Sheets. |
| [B] | Sheet (Generation Assets, Long-Term Firm PPAs or Transmission/Natural Gas Assets) | The words "Generation", "PPA", or "Transmission/Natural Gas" | Indicates in which asset sheet the End Note is located. |
| [C] | Explanatory Note | Free Form Text | Text providing the clarification or explanatory note. |

This is an example of the required appendix listing the filing entity and all its energy affiliates and their associated assets, which must be submitted with relevant market-based rate filings.

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| | | | | | **Asset Appendix: Generation Assets** | | | | | | | |
| [A] | [B] | [C] | [D] | [E] | [F] | [G] | [H] | [I] | [J] | [K] | [L] | [M] |
| | | | | | | **Location** | | | | | | |
| **Filing Entity and its Energy Affiliates** | **Docket # where MBR authority was granted** | **Generation Name (Plant or Unit Name)** | **Owned By** | **Controlled By** | **Date Control Transferred** | **Market / Balancing Authority Area** | **Geographic Region** | **In-Service Date** | **Capacity Rating: Nameplate (MW)** | **Capacity Rating: Used in Filing (MW)** | **Capacity Rating: Methodology Used in [K]: (N)ameplate, (S)easonal, 5-yr (U)nit, 5-yr (E)IA, (A)lternative** | **End Note Number (Enter text in End Notes Sheet)** |
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| | **Asset Appendix: Long-Term Firm Power Purchase Agreements (PPA)** | | | | | | | | |
| **Note:** | | | | | | | | | |
| Energy-only contracts must be converted to MW | | | | | | | | | |
| Only report contracts one year or longer | | | | | | | | | |
| [A] | [B] | [C] | [D] | [E] | [F] | [G] | [H] | [I] | [J] |
| | | | | **Location** | | | | | |
| **Filing Entity and its Energy Affiliates** | **Seller Name** | **Amount of PPA (MW)** | **Market / Balancing Authority Area (Source)** | **Market / Balancing Authority Area (Sink)** | **Geographic Region (Sink)** | **Start Date (mo/da/yr)** | **End Date (mo/da/yr)** | **Type of PPA (Unit or System)** | **End Note Number (Enter text in End Notes Sheet)** |
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| | | | **Asset Appendix: Transmission/Natural Gas Assets** | | | | | | |
| | | **Electric Transmission Assets and/or Natural Gas Intrastate Pipelines and/or Gas Storage Facilities** | | | | | | | |
| [A] | [B] | [C] | [D] | [E] | [F] | [G] | [H] | [I] | [J] |
| | | | | | | **Location** | | **Size** | |
| **Filing Entity and its Energy Affiliates** | **Cite to order accepting OATT or order approving the transfer of transmission facilities to an RTO or ISO** | **Asset Name and Use** | **Owned By** | **Controlled By** | **Date Control Transferred** | **Market / Balancing Authority Area** | **Geographic Region** | **Size (e.g., length and kV for electric, length and diameter for pipelines, and capacity for gas storage)** | **End Note Number (Enter text in End Notes Sheet)** |
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**Asset Appendix: End Notes**

**End Notes for Entries in the Generation, Long-Term Firm PPA and Transmission/Natural Gas Assets Sheets**

| [A]<br>End Note Number | [B]<br>Sheet (Generation, PPA or Transmission / Natural Gas) | [C]<br>Explanatory Note |
|---|---|---|
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[FR Doc. 2016–12427 Filed 5–25–16; 8:45 a.m.]

**BILLING CODE 6717–01–C**

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## DEPARTMENT OF LABOR

## Office of Labor-Management Standards

## 29 CFR Parts 403 and 458

## The Reorganization and Delegation of Authority for the Procedures Involving the Election of Officers in Federal Sector Labor Organizations; Filing Threshold for Simplified Annual Reports; and Instructions Regarding the Reports for Labor Organization Officer and Employee, Labor Organization Annual Report, Trusteeship, and Terminal Trusteeship

**AGENCY:** Office of Labor-Management Standards, DOL.

**ACTION:** Final rule; technical corrections.

**SUMMARY:** The Office of Labor-Management Standards (OLMS) is making a number of technical corrections to its regulations and LM form instructions. OLMS is revising the instructions for the Form LM–30, Labor Organization Officer and Employee Report. OLMS is also amending a 2003 final rule on labor organization annual reports in order to incorporate the previously updated filing threshold for smaller labor organizations with gross annual receipts totaling less than $250,000, make a technical correction to the instructions for the Form LM–2 Labor Organization Annual Report, Item 36 (Dues and Agency Fees), as well as to update the instructions for the Form LM–15, Trusteeship Report, and Form LM–16, Terminal Trusteeship Report. In addition, OLMS is amending a 2013 technical amendment implementing Secretary's Order No. 02–2012, which delegated appellate authority over certain federal sector labor organization officer election matters to the Administrative Review Board.

**DATES:** Effective May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5609, Washington, DC 20210, *olms-public@dol.gov,* (202) 693–0123 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:**

### Background

The Form LM–30 final rule that is the subject of these corrections appeared in the **Federal Register** on October 26, 2011 (76 FR 66441); the final rule revised the Form LM–30, Labor Organization Officer and Employee Report, its instructions, and related provisions in the Department's regulations. The rule implemented section 202 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. 432, whose purpose is to require officers and employees of labor organizations to report specified financial transactions, arrangements, and holdings to effect public disclosure of any possible conflicts of interest with their duty to the labor organization and its members. The Form LM–30 and instructions are referenced in 29 CFR part 404. See 29 CFR 404.3 (Form of Annual Report).

These corrections also amend a final rule published in the **Federal Register** on October 10, 2003 (68 FR 58374), concerning labor organization annual reports. In that rule, the Department increased the filing threshold for Form LM–2 filers from $200,000 to $250,000 in gross annual receipts. See 68 FR 58383. However, the rule did not make a corresponding amendment to the text of 29 CFR 403.4(a)(1) (Simplified annual reports for smaller labor organizations), which permits smaller labor organizations to file the simplified Form LM–3 if they do not have gross annual receipts that meet the filing threshold for the Form LM–2.

Furthermore, the 2003 rule mandated electronic filing of the Form LM–2 for labor organizations with $250,000 or more in gross receipts. See 68 FR 58407. The instructions for the Form LM–2 were properly revised to reflect this requirement, but the rule did not update the instructions for the Form LM–15, Trusteeship Report, or the instructions for the Form LM–16, Terminal Trusteeship Report, both of which still contain references to the old paper format of the Form LM–2. Pursuant to Title III of the LMRDA and the Department's regulations at 29 CFR part 408, the instructions for the Forms LM–15 and LM–16 detail a parent organization's obligation to complete the Form LM–2 on behalf of a subordinate organization that it has placed in trusteeship.

Moreover, today's corrections fix an omission in Section III of the instructions for the Form LM–16, by making clear that the treasurer of the parent union, in addition to the president (or corresponding principal officers), is required to sign the subordinate union's Form LM–2 report, pursuant to 29 U.S.C. 461(a). The Forms LM–16 and LM–16 and instructions are referenced in 29 CFR part 408. See 29 CFR 408.3 (Form of Initial Report) and 29 CFR 408.7 (Terminal Trusteeship Information Report).

Additionally, these amendments correct a technical error in the instructions for Form LM–2 Labor Organization Annual Report, Item 36 (Dues and Agency Fees), by clarifying an example concerning the reporting by a parent body and its subordinate for dues retained by the parent body from dues checkoff as payment for supplies purchased from the parent body by its subordinate. The Form LM–2 and instructions are referenced in 29 CFR part 403. See 29 CFR 403.3 (Form of Annual Financial Report—Detailed Report).

Finally, these corrections amend a final rule published in the **Federal Register** on February 5, 2013 (78 FR 8022), concerning technical amendments implementing Secretary's Order No. 02–2012 (77 FR 69378), which delegated appellate authority over certain federal sector labor organization officer election matters to the Administrative Review Board (ARB). That rule, in part, amended 29 CFR 458.65 by removing the references to "Assistant Secretary," and adding in their place, the term "Director" in paragraphs (b) and (c). Upon review, the reference in paragraph (b) should have been replaced with a more general reference to the enforcement procedures outlined in 29 CFR 458.66 through 458.92, as final decisions on challenged elections may be made by different officials depending on the applicable procedure. In addition, the reference in paragraph (c) should have been replaced by the term "Administrative Review Board" instead of the term "Director."

The rule also amended 29 CFR 458.70 by removing the references to "Assistant Secretary," and adding, in their place, "Administrative Review Board" in two places. However, in the last sentence of 29 CFR 458.70, the rule did not replace the term "he," which refers to the Assistant Secretary, with the more appropriate term "it," for the ARB. Today's corrections make that change, consistent with the use of the term "it" in 29 CFR 458.91 and 458.93 in reference to the ARB, so that the sentence now reads as follow: "The Administrative Review Board may order the remedial action set forth in the stipulated agreement or take such other action as it deems appropriate."

## Need for Corrections

These amendments are necessary to correct the language in the Form LM–30 instructions concerning the scope of "the filer," as encompassing the union official as well as his or her spouse and minor child.[1] The Form LM–30 and the general instructions for Parts A, B, and C, as well as the language in Part II (Who Must File) of the instructions, make clear that "you" also refers to the official's spouse and minor child, not just the union official, and that this applies to the entire form. Further, this requirement derives directly from the statute. However, the specific instructions for Parts A and B simply refer to "you," without mentioning spouse or minor child. This would not pose an issue, due to the aforementioned form and general instructions, but the instructions for Part C refer to "you, your spouse, or your minor child." This difference in language may cause confusion as to whether the scope of Parts A and B includes the union official's spouse and minor children.

These amendments are also necessary to correct the language in 29 CFR 403.4(a)(1) to reflect the revised $250,000 filing threshold that was put in place pursuant to the October 2003 final rule on labor organization annual reports. As published, the final regulations did not update the filing threshold in 403.4(a)(1), which may prove to be misleading.

These amendments are also necessary to correct the language in the Form LM–15 and Form LM–16 instructions concerning a parent organization's obligation to file and sign the Form LM–2 annual report of a subordinate organization that it has placed in trusteeship. The instructions refer to the outdated paper format of the Form LM–2 and omit, in one section of the Form LM–16, the statutory requirement for the parent organization's treasurer to also sign the subordinate's Form LM–2. As published, these instructions may prove to be misleading.

Additionally, these amendments are necessary to correct an error in an example provided in the instructions for Form LM–2 Labor Organization Annual Report, Item 36 (Dues and Agency Fees). The instructions state that any amounts of dues checkoff retained by the parent or intermediate body other than per capita tax must be explained in Item 69 (Additional Information). As an example of such reporting by a parent body concerning dues checkoff retained for its subordinate body, the instructions state correctly that a parent body would explain in Item 69 (Additional Information) $500 retained from the dues checkoff as payment for supplies purchased from that body by the subordinate union. However, the example also states that the $500 should not be reported as a receipt or disbursement by either the parent or subordinate body. These amendments are necessary to correct the example, by clarifying that the $500 would not be reported by the subordinate body as a receipt or disbursement. The parent body, however, would report the $500 as a receipt, in this case in Item 39 (Sale of Supplies).

Finally, these amendments are necessary to correct the language in 29 CFR 458.65(b) to reflect the appropriate enforcement procedures and in 29 CFR 458.65(c) and 458.70 to make appropriate references for the ARB, pursuant to Secretary's Order No. 02–2012. As published, the final regulations erroneously replaced the term "Assistant Secretary" with the term "Director" in 29 CFR 458.65, which may prove to be misleading. In the last sentence of 29 CFR 458.70, the final regulations did not properly replace the term "he" with the term "it" in reference to the ARB, which may prove to be misleading.

## Corrections to Forms LM–30, LM–15, LM–16, and LM–2

1. Part A (Represented Employer) of the Form LM–30 instructions, at 5, is changed to read: Complete Part A if you, your spouse, or your minor child (1) held an interest in, (2) engaged in transactions or arrangements (including loans) with, or (3) derived income or other benefit of monetary value from, an *employer whose employees your labor organization represents or is actively seeking to represent.*

2. Part B (Business) (a) of the Form LM–30 instructions, at 7, is changed to read: Complete Part B if you, your spouse, or your minor child held an interest in or derived income or other benefit with monetary value, including reimbursed expenses, from a business (1) a *substantial part* of which consists of buying from, selling or leasing to, or otherwise *dealing* with the business of an employer whose employees your labor organization represents or is actively seeking to represent, or (2) any part of which consists of buying from or selling or leasing directly or indirectly to, or otherwise dealing with your labor organization or with a trust in which your labor organization is interested. Report payments received as director's fees, including reimbursed expenses.

3. In Section III (WHAT FORMS TO FILE) of the LM–15 instructions, at 2, the second paragraph of the subsection entitled "Labor Organization Annual Report" is changed to read: Any Form LM–2 filed on behalf of a trusteed organization must include the signatures of the trustees in addition to the signatures of the president and treasurer or corresponding principal officers of the organization which established the trusteeship. To add signature blocks to the Form LM–2 in the electronic filing system, click on the "Add Signature Block" button on the bottom of page 1. If paper filing is permitted, trustees should sign and date the Form LM–2 in the space below the officers' signatures in Items 70 and 71.

4. The last two sentences in Section III (WHAT FORMS TO FILE) of the LM–16 instructions, at 1, are changed to read: The Form LM–2 must contain the signatures of the trustees, in addition to the signatures of the president and treasurer or corresponding principal officers of the parent union. To add signature blocks to the Form LM–2 in the electronic filing system, click on the "Add Signature Block" button on the

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[1] Note: the amendments to the instructions were published as appendices to the final rule and are not reproduced in the CFR.

bottom of page 1. If paper filing is permitted, trustees should sign and date the Form LM–2 in the space below the officers' signatures in Items 70 and 71.

5. Amend instructions for Form LM–2 Labor Organization Annual Report, Item 36 (Dues and Agency Fees) to remove the term "either" in the third sentence of the second paragraph and adding "the reporting" in its place. The sentence would read as follows:

> For example, if the intermediate body or parent body retained $500 of the reporting organization's dues checkoff as payment for supplies purchased from that body by the reporting organization, this should be explained in Item 69, but the $500 should not be reported as a receipt or disbursement on the reporting organization's Form LM–2.

**List of Subjects**

*29 CFR Part 403*

Labor unions, Reporting and recordkeeping requirements.

*29 CFR Part 458*

Administrative practice and procedure, Government employees, Labor unions, Reporting and recordkeeping requirements.

For reasons stated in the preamble, 29 CFR parts 403 and 458 are corrected by the following amendments:

## PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

■ 1. The authority citation for part 403 continues to read as follows:

**Authority:** Secs. 201, 207, 208, 301, 73 Stat. 524, 529, 530 (29 U.S.C. 431, 437, 438, 461); Secretary's Order No. 03–2012, 77 FR 69376, November 16, 2012.

### § 403.4 [Amended]

■ 2. In § 403.4, in paragraph (a)(1), remove the term "$200,000" and add in its place "$250,000".

## PART 458—STANDARDS OF CONDUCT

■ 3. The authority citation for part 458 continues to read as follows:

**Authority:** 5 U.S.C. 7105, 7111, 7120, 7134; 22 U.S.C. 4107, 4111, 4117; 2 U.S.C. 1351(a)(1); Secretary's Order No. 03–2012, 77 FR 69376, November 16, 2012; Secretary's Order No. 02–2012, 77 FR 69378, November 16, 2012.

■ 4. In § 458.65, revise paragraphs (b) and (c) to read as follows:

### § 458.65 Procedures following actionable complaint.

* * * * *

(b) The challenged election shall be presumed valid pending a final decision thereon as hereinafter provided in §§ 458.66 through 458.92, and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

(c) When the Chief, DOE supervises an election pursuant to an order of the Administrative Review Board issued under § 458.70 or § 458.91, he shall certify to the Administrative Review Board the names of the persons elected. The Administrative Review Board shall thereupon issue an order declaring such persons to be the officers of the labor organization.

### § 458.70 [Amended]

■ 5. In § 458.70, amend the last sentence by removing the term "he" and adding in its place "it".

Signed in Washington, DC, this 9th day of May, 2016.

**Michael J. Hayes,**

*Director, Office of Labor-Management Standards.*

[FR Doc. 2016–11611 Filed 5–25–16; 8:45 am]

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## DEPARTMENT OF DEFENSE

## Office of the Secretary

## 32 CFR Part 269

**[Docket ID: DOD–2016–OS–0045]**

**RIN 0790–AJ42**

# Civil Monetary Penalty Inflation Adjustment

**AGENCY:** Under Secretary of Defense (Comptroller), Department of Defense.

**ACTION:** Interim final rule.

**SUMMARY:** On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990. The 2015 Act updates the process by which agencies adjust applicable civil monetary penalties for inflation to retain the deterrent effect of those penalties. The 2015 Act requires that not later than July 1, 2016, and not later than January 15 of every year thereafter, the head of each agency must, by regulation published in the **Federal Register**, adjust each CMP within its jurisdiction by the inflation adjustment described in the 2015 Act. Accordingly, the Department of Defense must adjust the level of all civil monetary penalties under its jurisdiction through an interim final rule and make subsequent annual adjustments for inflation.

**DATES:** This rule is effective May 26, 2016. Comments must be received by July 25, 2016.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Attn: Mailbox 24, Alexandria, VA 22350–1700.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Brian Banal, 703–571–1652.

**SUPPLEMENTARY INFORMATION:**

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust the level of civil monetary penalties through an interim final rule in the **Federal Register**.

**Background Information**

The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), Public Law 114–74, November 2, 2015 requires agencies to annually adjust the level of Civil Monetary Penalties (CMP) for inflation to improve their effectiveness and maintain their deterrent effect. The 2015 Act requires that not later than July 1, 2016, and not later than January 15 of every year thereafter, the head of each agency must adjust each CMP within its jurisdiction by the inflation adjustment described in the 2015 Act. The inflation adjustment must be determined by increasing the maximum CMP or the range of minimum and maximum CMPs, as applicable, for each CMP by the cost-of-living adjustment, rounded to the nearest multiple of $1. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index (CPI) for the month of October preceding the date of the adjustment (January 15), exceeds the CPI for the month of October in the previous calendar year. The initial adjustment to a CMP may not exceed 150 percent of the corresponding level in effect on November 2, 2015.

Any increased penalties will only apply to violations which occur after the date on which the increase takes effect.

Each CMP subject to the jurisdiction of the Department of Defense has been adjusted in accordance with the 2015 Act. In compliance with the 2015 Act, the Department of Defense is amending its CMP penalty amounts.

### Executive Summary

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act). The 2015 Act updates the process by which agencies adjust applicable civil monetary penalties for inflation to retain the deterrent effect of those penalties. Agencies are required to make an initial "catch-up" adjustment for civil monetary penalties with the new levels published in the **Federal Register** by July 1, 2016, to take effect no later than August 1, 2016. Thereafter, agencies are required to make annual inflationary adjustments, starting January 15, 2017, and each year following, based on Office of Management and Budget (OMB) guidance. Finally, each year in accordance with OMB Circular A–136, agencies will report in the Agency Financial Reports the status of adjustments to civil monetary penalties.

### I. Purpose of the Regulatory Action

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, requires the Department of Defense to adjust applicable civil monetary penalties for inflation to improve the effectiveness and retain the deterrent effect of such penalties. The implementation of this rule will deter violations of law, encourage corrective action(s) of existing violations, and prevent waste, fraud, and abuse within the Department of Defense.

### *Description of Authority Citation*

28 U.S.C. 2461 note, mandates that not later than July 1, 2016, and not later than January 15 of every year thereafter, the head of each agency (in this case the Secretary of Defense) must adjust for inflation each civil monetary penalty provided by law within the jurisdiction of the Federal agency (in this case the Department of Defense), except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986 [26 U.S.C. 1 *et seq.*] or the Tariff Act of 1930 [19 U.S.C. 1202 *et seq.*], through an interim final rulemaking; and publish each such adjustment in the **Federal Register**.

### II. Summary of the Major Provisions of the Regulatory Action in Question

Previously, the Debt Collection Improvement Act of 1996 required agencies to adjust civil monetary penalty levels every four years. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) Act updates this requirement with annual adjustments for inflation based on Office of Management and Budget (OMB) guidance.

In accordance with the 2015 Act, OMB will provide adjustment rate guidance no later than December 15, 2016, and no later than December 15 for each following year, to adjust for inflation in the Consumer Price Index for all Urban Consumers as of the most recent October. Agencies are required to publish annual inflation adjustments in the **Federal Register** no later than January 15, starting in 2017, and each subsequent year.

Agency heads are responsible for implementing this guidance and for submitting information to OMB annually on applicable civil monetary penalties through Agency Financial Reports in accordance with OMB Circular A–136.

### III. Costs and Benefits

There are no significant costs associated with the regulatory revisions that would impose any mandates on the Department of Defense, Federal, State or local governments, or the private sector. The Department of Defense anticipates that civil monetary penalty collections may increase in the future due to new penalty authorities and other changes in this rule. However, it is difficult to accurately predict the extent of any increase, if any, due to a variety of factors, such as budget and staff resources, the number and quality of civil penalty referrals or leads, and the length of time needed to investigate and resolve a case.

### *Regulatory Procedures*

#### Executive Order 12866, "Regulatory Planning and Review" and Executive Order 13563, "Improving Regulation and Regulatory Review"

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," because it does not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

#### Unfunded Mandates Reform Act (2 U.S.C. Chapter 25)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule the mandates of which require spending in any year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

#### Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

The Department of Defense certifies that this rule is not subject to the Regulatory Flexibility Act because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require a regulatory flexibility analysis.

#### Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

The Department of Defense certifies that this rule does not trigger any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, "Federalism"

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This interim final rule will not have a substantial effect on State and local governments.

**List of Subjects in 32 CFR Part 269**

Administrative practice and procedure, Penalties.

Accordingly, 32 CFR part 269 is amended as follows:

## PART 269—[AMENDED]

■ 1. The authority citation for 32 CFR part 269 is revised to read as follows:

**Authority:** 28 U.S.C. 2461 note.

■ 2. Revise § 269.1 to read as follows:

### § 269.1 Scope and purpose.

The purpose of this part is to establish a mechanism for the regular adjustment for inflation of civil monetary penalties under the jurisdiction of the Department of Defense. Applicable civil monetary penalties must be adjusted in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, November 2, 2015, in order to improve the deterrent effect of civil monetary penalties and to promote compliance with the law.

### § 269.2 [Amended]

■ 3. Amend § 269.2 by adding "and" after the semicolon in paragraph (b)(1)(ii).

■ 4. Amend § 269.3 by:

■ a. Revising the introductory text.

■ b. In paragraph (a):

■ i. Removing "By regulation adjustment" and adding in its place "By regulation, adjust."

■ ii. Removing "the Department of Defense" and adding in its place "the Department."

The revision reads as follows:

### § 269.3 Civil monetary penalty inflation adjustment.

The Department must, not later than July 1, 2016 and not later than January 15 of every year thereafter—

* * * * *

■ 5. Revise § 269.4 to read as follows:

### § 269.4 Cost of living adjustments of civil monetary penalties.

(a) The inflation adjustment under § 269.3 must be determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest multiple of $1.

(b) For purposes of paragraph (a) of this section, the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of October preceding the date of the adjustment (January 15), exceeds the Consumer Price Index for the month of October in the previous calendar year. For example, if the Consumer Price Index for October 2016 is 1.0 and the Consumer Price Index for October 2015 was 0.75, then all applicable penalties will need to be positively adjusted by 0.25 by January 15, 2017.

(c) *Limitation on initial adjustment.* The initial adjustment of civil monetary penalty pursuant to § 269.3 may not exceed 150 percent of such penalty.

(d) *Inflation adjustment.* Maximum civil monetary penalties within the jurisdiction of the Department are adjusted for inflation as follows:

| United States Code | Civil monetary penalty description | Maximum penalty amount as of 10/23/96 | New adjusted maximum penalty amount |
|---|---|---|---|
| National Defense Authorization Act for FY 2005, 10 U.S.C 113, note. | Unauthorized Activities Directed at or Possession of Sunken Military Craft. | Not Applicable[1] | $124,588 |
| 10 U.S.C. 1094(c)(1) | Unlawful Provision of Health Care | $5,500 | 10,940 |
| 10 U.S.C. 1102(k) | Wrongful Disclosure—Medical Records: | | |
| | First Offense | 3,300 | 6,469 |
| | Subsequent Offense | 22,000 | 43,126 |
| 10 U.S.C. 2674(c)(2) | Violation of the Pentagon Reservation Operation and Parking of Motor Vehicles Rules and Regulations. | Not Applicable[1] | 1,782 |
| 31 U.S.C. 3802(a)(1) | Violation Involving False Claim | 5,500 | 10,781 |
| 31 U.S.C. 3802(a)(2) | Violation Involving False Statement | 5,500 | 10,781 |

[1] Penalties were not identified in the 1996 publication of this chart and/or were not established by statute or regulation in 1996.

### § 269.5 [Amended]

■ 6. Amend § 269.5 by removing "shall apply only to violations which occur after the date the increase takes effect" and adding in its place "must apply only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect (*i.e.*, July 1, 2016)."

Dated: May 20, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016–12365 Filed 5–25–16; 8:45 am]

BILLING CODE 5001–06–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2016–0360]**

## Drawbridge Operation Regulation; York River, Yorktown, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Coleman Memorial Bridge (US 17) across the York River, mile 7.0, Yorktown, VA. The deviation is necessary to perform bridge maintenance. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This deviation is effective without actual notice from May 26, 2016 to 7 p.m. on July 17, 2016. For the purposes of enforcement, actual notice will be used from 7 a.m. on May 22, 2016, until May 26, 2016.

**ADDRESSES:** The docket for this deviation, [USCG–2016–0360] is available at *http://www.regulations.gov*. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mrs. Traci Whitfield, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6629, email *Traci.G.Whitfield@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** Virginia Department of Transportation (VDOT), the owner of the Coleman Memorial Bridge (US 17), has requested a temporary deviation from the current operating regulation to perform repairs. VDOT needs to perform mechanical work that cannot be accomplished when the bridge is moveable. The bridge must be in the closed-to-navigation position to perform the maintenance. The bridge is a single bascule span and has a vertical clearance in the closed position of seven feet above mean high water. The York River is used by a variety of vessels including deep draft ocean-going vessels, U. S. government vessels, Small commercial fishing vessels, recreational vessels and tug and barge traffic. The Coast Guard has carefully coordinated the restrictions with U. S. government and commercial waterway users.

Under this temporary deviation, the bridge will remain in the closed-to-navigation position from 7 a.m. to 7 p.m. as follows: Sunday, May 22, 2016; Sunday, June 5, 2016 with an inclement weather date on Sunday, June 12, 2016; Sunday, June 19, 2016 with an inclement weather date on Sunday, June 26, 2016; and Sunday, July 10, 2016 with an inclement weather date on Sunday, July 17, 2016. At all other times, the bridge will operate in accordance with the operating regulations set out in 33 CFR 117.1025.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 19, 2016.

**Hal R. Pitts,**

*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2016–12405 Filed 5–25–16; 8:45 am]

BILLING CODE 9110–04–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2016–0202]**

**RIN 1625–AA00**

## Safety Zone; Monongahela River Mile 97.5 to Mile 100.5, Morgantown, WV

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters of the Monongahela River from mile 97.5 to mile 100.5. The safety zone is needed to protect spectators, participants, and personnel involved in the West Virginia Triathlon. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Pittsburgh.

**DATES:** This rule is effective from 6 a.m. until 10 a.m. on June 19, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0202 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

| | |
|---|---|
| CFR | Code of Federal Regulations |
| DHS | Department of Homeland Security |
| FR | Federal Register |
| NPRM | Notice of proposed rulemaking |
| § | Section |
| U.S.C. | United States Code |

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard received notice on March 1, 2016, that this event would take place. After receiving and fully reviewing the event information, circumstances and exact location, the Coast Guard determined that a safety zone is necessary to protect spectators, participants, and the personnel involved in the West Virginia Triathlon. It would be impracticable to complete the full NPRM process for this safety zone because it needs to be established by June, 19, 2016. The triathlon event has been advertised and the local community has prepared for the event. For the same reasons, under 5 U.S.C. 553(d)(3), we find good cause for making this rule effective less than 30 days after publication.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Pittsburgh (COTP) has determined that a safety zone is needed on June 19, 2016. This rule is needed to protect personnel, spectators, and participants in navigable waters during the swimming portion of the West Virginia Triathlon.

### IV. Discussion of the Rule

This rule establishes a safety zone on June 19, 2016, from 6 a.m. until 10 a.m. The safety zone will cover all navigable waters on the Monongahela River from mile 97.5 to mile 100.5. The duration of the safety zone is intended to protect personnel, spectators, and participants while the swimming portion of the West Virginia Triathlon takes place. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts a small portion of the waterway and for a limited duration of four hours. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue Broadcast Notices to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to transit the zone.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting four hours that will prohibit entry on all waters of the Monongahela River from mile 97.5 to mile 100.5 during the swimming portion of West Virginia Triathlon. It is categorically excluded from further review under paragraph 34 (g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0202 to read as follows:

### § 165.T08–0202 Safety Zone, Monongahela River, Pittsburgh, PA.

(a) *Location.* The following area is a safety zone: all waters of the Monongahela River, from mile 97.5 to 100.5, extending the entire width of the waterway.

(b) *Effective period.* This section is effective, and will be enforced, from 6 a.m. until 10 a.m. on June 19, 2016.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Pittsburgh or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Pittsburgh or a designated representative. The Captain of the Pittsburgh representative may be contacted at 412–221–0807.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh or their designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers.

(d) *Information broadcasts.* The Captain of the Port Pittsburgh or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: April 25, 2016.

**L. McClain, Jr.,**

*Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.*

[FR Doc. 2016–12371 Filed 5–25–16; 8:45 am]

**BILLING CODE 9110–04–P**

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R01–OAR–2015–0801; A–1–FRL–9946–94–Region 1]**

## Air Plan Approval; ME; Control of Volatile Organic Compound Emissions From Fiberglass Boat Manufacturing and Surface Coating Facilities

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions establish Reasonably Available Control Technology (RACT) requirements for reducing volatile organic compound (VOC) emissions from fiberglass boat manufacturing and surface coating operations. The intended effect of this action is to approve these requirements into the Maine SIP. This action is being taken in accordance with the Clean Air Act.

**DATES:** This direct final rule will be effective July 25, 2016, unless EPA receives adverse comments by June 27, 2016. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R01–OAR–2015–0801 at *http://www.regulations.gov,* or via email to *Mackintosh.David@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** David L. Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, tel. 617–918–1584, fax 617–918–0668, email *Mackintosh.David@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. What action is EPA taking?
II. What is the background for this action?
III. What is included in Maine's submittals?
IV. EPA's Evaluation of Maine's Submittals
V. Final Action
VI. Incorporation by Reference
VII. Statutory and Executive Order Reviews

### I. What action is EPA taking?

EPA is approving Maine's Chapter 162, "Fiberglass Boat Manufacturing Materials," submitted on July 1, 2014, to address EPA's Control Techniques Guidelines (CTG) for Fiberglass Boat Manufacturing Materials (EPA–453/R–08–004, September 2008). EPA is also approving Maine's revised Chapter 129, "Surface Coating Facilities," submitted on August 18, 2015, to address EPA's CTG for Miscellaneous Metal and Plastic Parts Coatings (EPA–453/R–08–003, September 2008). These two Maine regulations implement RACT for the applicable facility operations. Lastly, EPA is approving Maine's negative declarations for two CTGs, Automobile and Light-Duty Truck Assembly Coatings (EPA–453/R–08–006, September 2008) and Large Appliance Coatings (EPA–453/R–07–004, September 2007), which were submitted on April 23, 2013.

### II. What is the background for this action?

Maine is part of the Ozone Transport Region (OTR) under Section 184(a) of the CAA. Sections 182(b)(2) and 184 of the CAA compel states with moderate and above ozone nonattainment areas, as well as areas in the OTR, respectively, to submit a SIP revision requiring the implementation of RACT for sources covered by a CTG and for all major sources. A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category.

On October 9, 2007, EPA issued three CTGs, including the CTG for Large Appliance Coatings, which states were required to address by October 9, 2008 (72 FR 57215). Then on October 7, 2008, EPA issued four CTGs including Miscellaneous Metal and Plastic Parts Coatings, Fiberglass Boat Manufacturing Materials, and Automobile and Light-Duty Truck Assembly Coatings, which states were required to address by October 7, 2009 (73 FR 58841).

## III. What is included in Maine's submittals?

On April 23, 2013, Maine submitted a SIP revision to EPA containing negative declarations for two CTG source categories: Automobile and Light-Duty Truck Assembly Coatings and Large Appliance Coatings. Negative declarations include a statement that no sources subject to the requirement in question are located in the state; thus the state need not adopt a regulation based on a CTG that otherwise would apply to such sources. Then on July 1, 2014, Maine submitted a SIP revision to EPA containing a new regulation, Maine's Chapter 162, "Fiberglass Boat Manufacturing Materials," to address the CTG of the same name. Lastly, on August 18, 2015, Maine submitted revised Chapter 129, "Surface Coating Facilities," to address EPA's Miscellaneous Metal and Plastic Parts Coatings CTG.

## IV. EPA's Evaluation of Maine's Submittals

Maine's new Chapter 162, "Fiberglass Boat Manufacturing Materials," is consistent with the recommendations for RACT found in EPA's CTG for Fiberglass Boat Manufacturing Materials. This new regulation is effective on July 30, 2013, and applies to fiberglass boat manufacturing operations that have, before controls, combined actual emissions of 5,400 pounds of VOC or more, per rolling 12-month period, from the use of gel coats, resins, and materials used to clean application equipment. Applicable facilities for which construction commenced prior to the effective date of the rule, must comply within 36 months after the effective date of the rule or upon initial startup, whichever is later, and facilities for which construction commenced on or after the effective date of the rule must comply upon their initial startup. Specifically, the rule applies to facilities that manufacture hulls or decks of boats from fiberglass but not to facilities that solely manufacture parts of boats such as hatches, seats, or lockers. Sources subject to the rule must meet specific VOC content limits for resin and gel coat operations such as open molding, mixing and cleaning application equipment. Facilities may meet these limits by implementing one of the following prescribed techniques: Use of low-VOC content materials; averaging the VOC content of materials to meet low-VOC content standards; and/or the installation and operation of pollution control devices. Maine's rule has the same VOC content limits as the CTG and also includes the appropriate recordkeeping, reporting, and testing requirements to ensure these emission limits are enforceable. The new regulation also specifies work practices to reduce VOC emissions during the application, storage, mixing, and conveyance of coatings, resins, and cleaning materials.

Maine's Chapter 129, "Surface Coating Facilities," was previously approved by EPA on May 22, 2012 (77 FR 30216). The revised rule has been expanded to include the coating of plastic parts and products and to include additional coating categories for the coating of miscellaneous metal parts and products. The amendments provide for five major surface coating categories with numerous subcategories in each to further identify which coatings are subject to a specific VOC emission limit. The emissions limits may be achieved by using one or more of three compliance methods: Low solvent content coating technology; daily-weighted averaging of emission limitations; and installation and operation of an add-on air pollution control device with 95% capture and control efficiency. Maine's Chapter 129 also includes the appropriate recordkeeping, reporting, and testing requirements to ensure these emission limits are enforceable.

The new coating limits generally follow the recommendations in EPA's CTG for Miscellaneous Metal and Plastic Parts Coating, with the exception of three coating categories which, as explained below, does not render the rule as a whole less stringent than the rule previously approved by EPA into the Maine SIP. Maine adopted higher coating limits for Pleasure Craft Surface Coating than the CTG for Extreme High Gloss Topcoat, Other Substrate Antifoulant Coating, and Antifouling Sealer/Tie Coating. For these three categories, Maine reviewed industry data and determined that for purpose of functionality, cost, and VOC emissions, the alternative limits adopted for these three coating categories constitute RACT. Maine's approach is consistent with the EPA guidance memorandum, entitled "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration," from Stephen Page to Air Branch Chiefs, Regions I–X, dated June 1, 2010. Although some of the miscellaneous metal parts and products specialty coatings limits in Maine's revised Chapter 129 are higher than the limits that had been previously approved into the Maine SIP, the more frequently used General One Component and General Multi Component coating limits for metal parts are lower than the previous SIP-approved general category limit for metal parts referred to as "All Other Coatings." In addition, the revised rule's applicability is much broader. Thus, the revised rule satisfies the anti-back sliding requirements in Section 110(l) of the CAA because, the rule as whole will achieve an equal or greater amount of VOC reductions as compared to the rule previously approved into the SIP. This analysis is also consistent with the EPA guidance memorandum entitled "Approving SIP Revisions Addressing VOC RACT Requirements for Certain Coating Categories," dated March 17, 2011.

Maine also submitted negative declarations for two CTGs: Automobile and Light-Duty Truck Assembly Coatings and Large Appliance Coatings. Maine staff reviewed the inventory of sources for facilities with North American Industrial Classification System (NAICS) codes that correspond to these source categories, interviewed its field and compliance staff, and searched telephone and business directories to determine if any sources meeting the applicability requirements of these two CTGs are located in Maine. After thoroughly reviewing all available information, Maine determined that there were no sources meeting the applicability thresholds for these two source categories.

As discussed above, Maine's new Chapter 162 and revised Chapter 129 are consistent with the relevant CTGs with the exception of certain limited provisions that do not result in greater emissions of VOCs than otherwise would be the case. Therefore, EPA has concluded that Maine has met the CAA RACT requirement for the Fiberglass Boat Manufacturing Materials and the Miscellaneous Metal and Plastic Parts Coatings CTG source categories. In addition, Maine's method for arriving at the negative declarations for EPA's Automobile and Light-Duty Truck Assembly Coatings CTG and EPA's Large Appliance Coatings CTG is reasonable and EPA believes that the declarations are accurate. Therefore, EPA has concluded that Maine has also met the CAA RACT requirement for these two CTG source categories.

## V. Final Action

EPA is approving, and incorporating into the Maine SIP, Maine's new Chapter 162, "Fiberglass Boat Manufacturing Materials," and Maine's revised Chapter 129, "Surface Coating Facilities," as meeting RACT for the Fiberglass Boat Manufacturing and the Miscellaneous Metal and Plastic Parts Coatings CTG source categories, respectively. Additionally, EPA is approving Maine's negative declarations for two CTG source categories: Automobile and Light-duty Truck Assembly Coatings and Large Appliance Coatings.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective July 25, 2016 without further notice unless the Agency receives relevant adverse comments by June 27, 2016.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 25, 2016 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## VI. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Maine DEP regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov*.

## VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 25, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 11, 2016.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

Therefore, 40 CFR part 52, chapter I is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart U—Maine

■ 2. Amend § 52.1020 by:

■ a. In paragraph (c), table, revising the entry for "Chapter 129", and adding a new entry "Chapter 162" in numerical order; and

■ b. In paragraph (e), table, adding a new entry at the end of the table.

The revisions and additions read as follows:

**§ 52.1020 Identification of plan.**

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED MAINE REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date and citation [1] | Explanations |
|---|---|---|---|---|
| * | * | * | * | * |
| Chapter 129 ........................ | Surface Coating Facilities | 7/7/2015 | 5/26/2016 [Insert **Federal Register** citation]. | Added requirements for metal parts and plastic parts coating operations. |
| * | * | * | * | * |
| Chapter 162 ........................ | Fiberglass Boat Manufacturing Materials. | 7/30/2013 | 5/26/2016 [Insert **Federal Register** citation]. | |
| * | * | * | * | * |

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

(e) *Nonregulatory.*

MAINE NON REGULATORY

| Name of non regulatory SIP provision | Applicable geographic or nonattainment area | State submittal date/effective date | EPA approved date [3] | Explanations |
|---|---|---|---|---|
| * | * | * | * | * |
| Negative Declarations for Large Appliance Coatings and Automobile and Light-Duty Truck Assembly Coatings Control Technique Guidelines. | Maine Statewide ............... | 4/23/2013 | 5/26/2016 [Insert **Federal Register** citation]. | |

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2016–12398 Filed 5–25–16; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CA130–NBK; FRL–9942–49–Region 9]**

## Approval and Promulgation of Implementation Plans; State of California; Revised Format for Materials Incorporated by Reference

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** The Environmental Protection Agency (EPA) is revising the format for materials submitted by the State of California that are incorporated by reference (IBR) into the California State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by the State of California and approved by the EPA. This format revision will primarily affect the "Identification of plan" section, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office. This action, which only relates to state statutes and state regulations and does not include local and regional California air district rules, local ordinances, source-specific requirements, or nonregulatory and quasi-regulatory provisions, is the first of a series of actions intended to change the format for the entire California SIP.

**DATES:** *Effective Date:* This rule is effective on May 26, 2016.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901; and

National Archives and Records Administration.

For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

**FOR FURTHER INFORMATION CONTACT:** Kevin Gong, EPA Region IX, (415) 972–3073, *gong.kevin@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever "we", "us" or "our" are used, we mean the EPA. Information is organized as follows:

### Table of Contents

I. Background
  A. What a SIP Is
  B. How the EPA Enforces SIPs
  C. How the State and the EPA Update the SIP

  - D. How the EPA Compiles the SIPs
  - E. How the EPA Organizes the SIP Compilation
  - F. Where You Can Find a Copy of the SIP Compilation
  - G. The Format of the New Identification of Plan Section
  - H. When a SIP Revision Becomes Federally Enforceable
- II. What the EPA Is Doing in This Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

## I. Background

### *A. What a SIP Is*

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.

### *B. How the EPA Enforces SIPs*

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them. They are then submitted to the EPA as SIP revisions upon which the EPA must formally act. Once these control measures and strategies are approved by the EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), title 40 of the Code of Federal Regulations (40 CFR part 52). The actual state regulations approved by the EPA are not reproduced in their entirety in 40 CFR part 52, but are "incorporated by reference" (IBR'd) which means that the EPA has approved a given state regulation with a specific effective date. This format allows both the EPA and the public to know which measures are contained in a given SIP and ensures that the state is enforcing the regulations. It also allows the EPA and the public to take enforcement action, should a state not enforce its SIP-approved regulations.

### *C. How the State and the EPA Update the SIP*

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, the EPA must, from time to time, take action on SIP revisions containing new or revised regulations in order to make them part of the SIP. On May 22, 1997 (62 FR 27968), the EPA revised the procedures for IBR'ing federally-approved SIPs, as a result of consultations between the EPA and the Office of the Federal Register (OFR).

The EPA began the process of developing: (1) A revised SIP document for each state that would be IBR'd under the provisions of title 1 CFR part 51; (2) a revised mechanism for announcing the EPA's approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the "Identification of Plan" sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. We have taken action to revise the format for many state SIPs, *see, e.g.,* 40 CFR 52.1470 and 52.1490 ("Identification of plan" and "Original identification of plan" sections for the State of Nevada SIP), and take the first step today towards revising the format of the California SIP.

### *D. How the EPA Compiles the SIPs*

Under the revised SIP format, the federally-approved regulations, source-specific requirements, and nonregulatory provisions (entirely or portions of) submitted by each state agency have been compiled by the EPA into a "SIP compilation." The SIP compilation contains the updated regulations, source-specific requirements, and nonregulatory and quasi-regulatory provisions approved by the EPA through previous rulemaking actions in the **Federal Register**.

### *E. How the EPA Organizes the SIP Compilation*

Each compilation contains three parts. Part one contains the regulations, part two contains the source-specific requirements that have been approved as part of the SIP, and part three contains nonregulatory and quasi-regulatory provisions that have been EPA-approved. Each part consists of a table or tables of identifying information for each SIP-approved regulation, each SIP-approved source-specific requirement, and each nonregulatory or quasi-regulatory SIP provision. The EPA Regional Offices have the primary responsibility for updating the compilations and ensuring their accuracy.

In this action, the EPA is publishing the tables summarizing the state statutes and state regulations approved into the applicable California SIP. Given the size of the California SIP, the EPA is revising the format of the California SIP in a phased manner. This first action relates only to state statutes and state regulations. Future actions in the series of rulemakings will revise the format of the local and regional California air district rules, local ordinances, source-specific requirements, nonregulatory provisions and quasi-regulatory measures approved by the EPA as part of the California SIP.

### *F. Where You Can Find a Copy of the SIP Compilation*

EPA Region IX developed and will maintain the compilation for California. A copy of the full text of California's regulatory SIP compilation will also be maintained at NARA.

### *G. The Format of the New Identification of Plan Section*

In order to better serve the public, the EPA revised the organization of the "Identification of plan" section and included additional information to clarify the enforceable elements of the SIP. The revised Identification of plan section contains five subsections:

1. Purpose and scope.
2. Incorporation by reference.
3. EPA-approved regulations.
4. EPA-approved source-specific requirements.
5. EPA-approved nonregulatory and quasi-regulatory provisions such as air quality attainment plans, rate of progress plans, maintenance plans, monitoring networks, and small business assistance programs.

The California SIP is found in 40 CFR part 52 ("Approval and promulgation of implementation plans"), subpart F ("California"), section 52.220 ("Identification of plan").[1] In this action, we are revising the heading of section 52.220 to read, "Identification of plan—in part," and adding an introductory paragraph to convey our division of the California "Identification of plan" section into two sections:

- Amended section 52.220, which will for the time being continue to function as it has in the past to list past and newly-approved air district rules, local ordinances, source-specific requirements, and nonregulatory and quasi-regulatory provisions and which will list state statutes and state regulations approved on or prior to April 1, 2016 but will not list new or amended state statutes or state regulations approved after April 1, 2016, and

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[1] Subpart F begins with 40 CFR 52.219 ("Identification of plan—conditional approval"). Section 52.219 was promulgated at 58 FR 62533 (November 29, 1993) in a final rule in which the EPA conditionally approved California's request to "opt-out" of the clean-fuel vehicle fleet program required under CAA section 246 based on the state's commitment to formally adopt and submit a demonstration that the California Low-Emission Vehicle (LEV) program qualifies as a substitute for the section 246 program. In 1999, the EPA approved the state's SIP revision demonstrating that the LEV program qualifies as a substitute for the CAA clean-fuel vehicle fleet program and rescinded the condition on approval of the opt-out request. See the proposed approval at 62 FR 18071 (April 14, 1997) and the final approval at 64 FR 46849 (August 27, 1999). Our 1999 final action should have removed the now-obsolete regulatory text in 40 CFR 52.219 but failed to do so, and we are taking the opportunity now to remove the obsolete conditional approval in 40 CFR 52.219 from the CFR in this rulemaking.

- New section 52.220a ("Identification of plan—in part"), which will list the state statutes and state regulations approved as part of the California SIP after April 1, 2016.

This means that subsequent EPA approvals of air district rules, local ordinances, source-specific requirements, and nonregulatory and quasi-regulatory provisions will continue to be promulgated in 40 CFR 52.220 using the paragraph format whereas EPA approvals of state statutes and state regulations will now be promulgated in 40 CFR 52.220a using the table format.

Over time, as the EPA completes further rulemaking actions to convert the format of the California SIP, section 52.220a will include a growing number of air district rules, local ordinances, source-specific requirements, and nonregulatory and quasi-regulatory provisions. Once the conversion process is completed, the EPA will redesignate section 52.220a as 52.220 and rename it simply "Identification of plan." At that point, all subsequent actions by the EPA to approve California SIP revisions will be promulgated using the new table format. The EPA does not intend to retain in subpart F the historical record of SIP approvals that have been promulgated in paragraph format once the conversion process is completed.

### *H. When a SIP Revision Becomes Federally Enforceable*

All revisions to the relevant portion of the applicable SIP (in this first instance, state statutes and state regulations) become federally enforceable as of the effective date of the revisions to paragraphs (c), (d), or (e) of the applicable "Identification of plan—in part" section found in subpart F of 40 CFR part 52.

## II. What the EPA Is Doing in This Action

Today's rule constitutes a "housekeeping" exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by the EPA's regulations at 40 CFR part 51. When the EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

The EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

## III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is reformatting the materials incorporated by reference in previous rulemakings on submittal of the California SIP and SIP revisions. The EPA has made, and will continue to make, these documents generally available at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## IV. Statutory and Executive Order Reviews

### *A. General Requirements*

This action does not impose additional requirements beyond those previously approved into the SIP and already imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

In issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (63 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. The EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. 5 U.S.C. 802(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective of May 26, 2016. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. The change in format to the "Identification of plan" section for the State of California are not a 'major rule' as defined by 5 U.S.C. 804(2).

### *C. Petitions for Judicial Review*

The EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the California SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these "Identification of plan" reorganization actions for California.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: April 12, 2016.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart F—California

■ 2. Remove § 52.219 from subpart F.

■ 3. Revise the heading of § 52.220 and add introductory text to the section to read as follows:

### § 52.220 Identification of plan—in part.

This section identifies the local and regional air district rules, local ordinances, source-specific requirements, and nonregulatory materials submitted by the State of California and approved as part of the California state implementation plan. This section also identifies California statutes and state regulations submitted by the State of California and approved as part of the California state implementation plan on or prior to April 1, 2016. New or amended California statutes and state regulations approved after April 1, 2016 are identified in § 52.220a.

* * * * *

■ 4. Add new § 52.220a to read as follows:

### § 52.220a Identification of plan—in part.

(a) *Purpose and scope.* This section sets forth a portion of the applicable State implementation plan for the State of California under section 110 of the Clean Air Act, 42 U.S.C. 7401–7671q and 40 CFR part 51 to meet national ambient air quality standards. This section identifies the state statutes and state regulations portion of the applicable California State implementation plan.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) and (d) of this section with an EPA approval date on or prior to April 1, 2016, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after April 1, 2016 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region IX certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of April 1, 2016.

(3) Copies of the materials incorporated by reference may be inspected at the Region IX EPA Office at 75 Hawthorne Street, San Francisco, CA 94105; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA-approved regulations.*

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| | | **GOVERNMENT CODE** | | |
| | | **Title 9 (Political Reform), Chapter 2 (Definitions)** | | |
| 82048 | Public official | January 1, 2005 | April 1, 2016, 81 FR 18766. | Added by California Initiative Measure approved on June 4, 1974, effective January 7, 1975, and last amended in 2004. Submitted on March 6, 2014. See 40 CFR 52.220(c)(468)(i)(A)(*1*). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| **Title 9 (Political Reform), Chapter 7 (Conflicts of Interest), Article 1 (General Prohibitions)** | | | | |
| 87103 | Financial interest in decision by public official. | January 1, 2001 | April 1, 2016, 81 FR 18766. | Added by California Initiative Measure approved on June 4, 1974, effective January 7, 1975, and last amended in 2000. Submitted on March 6, 2014. See 40 CFR 52.220(c)(468)(i)(A)(*2*). |
| **Title 9 (Political Reform), Chapter 7 (Conflicts of Interest), Article 3 (Conflict of Interest Codes)** | | | | |
| 87302 | Required Provisions; exemptions. | January 1, 1993 | April 1, 2016, 81 FR 18766. | Added by California Initiative Measure approved on June 4, 1974, effective January 7, 1975, and last amended in 1992. Submitted on March 6, 2014. See 40 CFR 52.220(c)(468)(i)(A)(*3*). |
| **HEALTH AND SAFETY CODE** | | | | |
| **Division 26 (Air Resources Board), Part 4 (Nonvehicular Air Pollution Control), Chapter 3 (Emission Limitations), Article 5 (Gasoline Vapor Recovery)** | | | | |
| 41950 | Standards for stationary tanks. | January 1, 1976 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). Added Stats. 1975 ch. 957 § 12. |
| 41951 | "Pressure tank" defined. | January 1, 1976 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). Added Stats. 1975 ch. 957 § 12. |
| 41952 | "Vapor recovery system" defined. | January 1, 1976 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). Former § 39068.4. Added Stats. 1975 ch. 957 § 12. |
| 41953 | "Floating roof" defined | January 1, 1976 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). Former § 39068.5. Added Stats. 1975 ch. 957 § 12. |
| 41954 | Procedures; Standards; Certification; Testing; Fees. | September 28, 1981. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). Stats. 1981 ch. 902 § 5. |
| 41955 | Submission of system for certification. | September 20, 1976. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41956 | Fire prevention and measurement standards. | September 28, 1981. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41956.1 | Revision of standards; Prohibited systems. | September 28, 1981. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41957 | Safety hazards | September 20, 1976. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41958 | Design and performance standards; Certification and testing. | September 28, 1981. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41959 | Simultaneous testing | September 20, 1976. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41960 | Local or regional authorities. | September 20, 1976. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41960.1 | Operation of motor vehicle fueling vapor control system. | September 20, 1976. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41960.2 | Maintenance of vapor control system; Identification of equipment defects. | September 28, 1981. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41960.3 | Complaints concerning motor vehicle vapor control systems. | September 28, 1981. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41960.4 | Posting of operating instructions for motor vehicle fueling vapor control systems. | September 28, 1981. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 41961 | Certification fee | September 20, 1976. | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 41962 | Certification of standards compliance for cargo tanks. | January 1, 1978 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). Added Stats. 1977 ch. 983 § 2. |
| **PUBLIC RESOURCES CODE** | | | | |
| **Division 13 (Environmental Quality)** | | | | |
| 21000 | Legislative intent | January 1, 1980 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1979 c. 947 p. 3270 § 4. |
| 21001 | Additional legislative intent. | January 1, 1980 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1979 c. 947 p. 3271 § 5. |
| 21002 | Approval of projects; feasible alternatives or mitigation measures. | January 1, 1977 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1976 c. 1312 § 1. |
| 21002.1 | Use of environmental impact reports; policy. | January 1, 1978 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1977 c. 1200 p. 3996 § 1.5. |
| 21061 | "Environmental impact report" defined. | January 1, 1977 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1976 c. 1312 § 5. |
| 21063 | "Public agency" defined. | December 5, 1972 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1972 c. 1154 p. 2271 § 1. |
| 21065 | "Project" defined | December 5, 1972 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1972 c. 1154 p. 2271 § 1. |
| 21080.1 | Environmental impact report or negative declaration; determination by lead agency; finality; consultation. | January 1, 1978 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1977 c. 1200 p. 3997 § 3. |
| 21080.4 | Environmental impact report; requirement determined by lead agency; duties of responsible agencies; consultation; assistance by office of planning and research. | September 26, 1978. | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1978 c. 1113 p. 3403 § 8.3. |
| 21080.5(a), (b), (c), and (d). | Plans in lieu of environmental impact report. | June 30, 1978 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1978 c. 308. |
| 21081 | Necessary findings where environmental impact report identifies effects. | January 1, 1977 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1976 c. 1312 § 9. |
| 21082 | Public agencies; adoption of objectives, criteria and procedures; consistency with guidelines. | January 1, 1977 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1976 c. 1312 § 9.5. |
| 21100 | Environmental impact report on proposed state projects; significant effect; cumulative impact analysis. | January 1, 1977 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1976 c. 1312 § 16. |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS[1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 21104 | State lead agency; consultations prior to completion of impact report. | January 1, 1978 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1977 c. 1200 p. 4001 § 11. |
| 21151 | Local agencies; preparation and completion of impact report; submission as part of general plan report; significant effort. | December 5, 1972 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1972 c. 1154 p. 2276 § 11. |
| 21153 | Local lead agency; consultations prior to completion of impact report. | December 5, 1972 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1972 c. 1154 p. 2276 § 14. |
| 21160 | Application for lease, permit, license, etc.; data and information; purpose; trade secrets. | December 5, 1972 | January 21, 1981, 46 FR 5965. | Section from the California Environmental Quality Act. Submitted on October 20, 1980. See 40 CFR 52.220(c)(63). Stats. 1972 c. 1154 p. 2276 § 15. |
| **CALIFORNIA CODE OF REGULATIONS** | | | | |
| **Title 2 (Administration), Division 6 (Fair Political Practices Commission), Chapter 7 (Conflicts of Interest); Article 1 (Conflicts of Interest; General Prohibition)** | | | | |
| 18700 | Basic rule; Guide to conflict of interest regulations. | January 19, 2006 | April 1, 2016, 81 FR 18766. | Filed on December 17, 1976, effective upon filing, and last amendment filed on December 20, 2005, operative January 19, 2006. Submitted on March 6, 2014. See 40 CFR 52.220(c)(468)(i)(A)(*4*). |
| 18701 | Public Official, Definitions. | January 28, 2006 | April 1, 2016, 81 FR 18766. | Filed on January 22, 1976, effective February 21, 1976, and last amendment filed on December 29, 2005, operative January 28, 2006. Submitted on March 6, 2014. See 40 CFR 52.220(c)(468)(i)(A)(*5*). |
| **Title 3 (Food and Agriculture), Division 6 (Pesticides and Pest Control Operations), Chapter 2 (Pesticides); Subchapter 4 (Restricted Materials); Article 4 (Field Fumigant Use Requirements)** | | | | |
| 6447 | Methyl Bromide—Field Fumigation General Requirements. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Only the undesignated introductory text of this regulation was approved into the SIP. Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6447.3 | Methyl Bromide—Field Fumigation Methods. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6448 | 1,3-Dichloropropene Field Fumigation—General Requirements. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6448.1 | 1,3-Dichloropropene Field Fumigation Methods. | April 7, 2011 | October 26, 2012, 77 FR 65294. | Submitted on August 2, 2011. See 40 CFR 52.220(c)(414)(i)(A)(1). |
| 6449 | Chloropicrin Field Fumigation—General Requirements. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6449.1 | Chloropicrin Field Fumigation Methods. | April 7, 2011 | October 26, 2012, 77 FR 65294. | Submitted on August 2, 2011. See 40 CFR 52.220(c)(414)(i)(A)(1). |
| 6450 | Metam-Sodium, Potassium N-methyldithiocarbamate (metam potassium), and Dazomet Field Fumigation—General Requirements. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6450.1 | Metam-Sodium and Potassium N-methyldithiocarbamate (Metam Potassium) Field Fumigation Methods. | April 7, 2011 | October 26, 2012, 77 FR 65294. | Submitted on August 2, 2011. See 40 CFR 52.220(c)(414)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 6450.2 | Dazomet Field Fumigation Methods. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6451 | Sodium Tetrathiocarbonate Field Fumigation—General Requirements. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6451.1 | Sodium Tetrathiocarbonate Field Fumigation Methods. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6452 | Reduced Volatile Organic Compound Emissions Field Fumigation Methods. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6452.1 | Fumigant Volatile Organic Compound Emission Records and Reporting. | January 25, 2008 | October 26, 2012, 77 FR 65294. | Submitted on October 12, 2009. See 40 CFR 52.220(c)(413)(i)(A)(1). |
| 6452.2 | Fumigant Volatile Organic Compound Emission Limits. | April 7, 2011 | October 26, 2012, 77 FR 65294. | Excluding benchmarks for, and references to, Sacramento Metro, San Joaquin Valley, South Coast, and Southeast Desert in subsection (a) and excluding subsection (d). Submitted on August 2, 2011. See section 52.220(c)(414)(i)(A) (1). |
| 6452.3 | Field Fumigant Volatile Organic Compound Emission Allowances. | April 7, 2011 | October 26, 2012, 77 FR 65294. | Submitted on August 2, 2011. See 40 CFR 52.220(c)(414)(i)(A)(1). |
| 6452.4 | Annual Volatile Organic Compound Emissions Inventory Report. | April 7, 2011 | October 26, 2012, 77 FR 65294. | Excluding references to section 6446.1 in subsection (a)(4). Submitted on August 2, 2011. See 40 CFR 52.220(c)(414)(i)(A)(1). |
| **Title 3 (Food and Agriculture), Division 6 (Pesticides and Pest Control Operations), Chapter 3 (Pest Control Operations); Subchapter 2 (Work Requirements); Article 1 (Pest Control Operations Generally)** | | | | |
| 6624 | Pesticide Use Records | December 20, 2010 | October 26, 2012, 77 FR 65294. | Excluding references in subsection (f) to methyl iodide and section 6446.1. Submitted on August 2, 2011. See 40 CFR 52.220(c)(414)(i)(A)(2). |
| 6626 | Pesticide Use Reports for Production Agriculture. | April 7, 2011 | October 26, 2012, 77 FR 65294. | Submitted on August 2, 2011. See 40 CFR 52.220(c)(414)(i)(A)(2). |
| **Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 1 (Motor Vehicle Pollution Control Devices); Article 2 (Approval of Motor Vehicle Pollution Control Devices (New Vehicles))** | | | | |
| 1956.8 | Exhaust Emissions Standards and Test Procedures—1985 and Subsequent Model Heavy-Duty Engines and Vehicles. | December 31, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |
| 1960.1 | Exhaust Emissions Standards and Test Procedures—1981 through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles. | March 26, 2004 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |
| 1961 | Exhaust Emissions Standards and Test Procedures—2004 and Subsequent Model Passenger Cars, Light-Duty and Medium-Duty Vehicles. | June 16, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| **Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 1 (Motor Vehicle Pollution Control Devices); Article 4.5** | | | | |
| 2025 | Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from in-Use Heavy-Duty Diesel-Fueled Vehicles. | December 14, 2011 | April 4, 2012, 77 FR 20308. | The State of California Office of Administrative Law's corresponding Notice of Approval of Regulatory Action is dated December 14, 2011. Submitted on December 15, 2011. See 40 CFR 52.220(c)(410)(i)(A)(2). |
| 2027 | In-Use on-Road Diesel-Fueled Heavy-Duty Drayage Trucks. | November 9, 2011 | April 4, 2012, 77 FR 20308. | The State of California Office of Administrative Law's corresponding Notice of Approval of Regulatory Action is dated November 9, 2011. Submitted on December 9, 2011. See 40 CFR 52.220(c)(409)(i)(A)(2). |
| **Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 5 (Standards for Motor Vehicle Fuels); Article 1 (Standards for Gasoline)** | | | | |
| 2250 | Degree of Unsaturation for Gasolines Sold Before April 1, 1996. | December 16, 1992 | August 21, 1995, 60 FR 43379. | Submitted on November 15, 1994. See 40 CFR 52.220(c)(204)(i)(A)(3). |
| 2252 | Sulfur Content of Gasoline Represented as Unleaded Sold Before April 1, 1996. | August 11, 1991 | August 21, 1995, 60 FR 43379. | Submitted on November 15, 1994. See 40 CFR 52.220(c)(204)(i)(A)(3). |
| 2253.4 | Lead in Gasoline | August 12, 1991 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2254 | Manganese Additive Content. | August 12, 1991 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2257 | Required Additives in Gasoline. | July 16, 1999 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2259 | Exemptions for Motor Vehicle Fuels Used in Test Programs. | February 15, 1995 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2260 | Definitions | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2261 | Applicability of Standards; Additional Standards. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2262 | The California Reformulated Gasoline Phase 2 and Phase 3 Standards. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2262.3 | Compliance with the CaRFP Phase 2 and CaRFG Phase 2 Standards for Sulfur, Benzene, Aromatic Hydrocarbons, Olefins, T50 and T90. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2262.4 | Compliance with the CaRFP Phase 2 and CaRFG Phase 2 Standards for Reid Vapor Pressure. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2262.5 | Compliance with the Standards for Oxygen Content. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2262.6 | Prohibition of MTBE and Oxygenates Other Than Ethanol in California Gasoline Starting December 31, 2003. | April 9, 2005 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 2262.9 | Requirements Regarding Denatured Ethanol Intended for Use as a Blend Component in California Gasoline. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2263 | Sampling Procedures and Test Methods. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2263.7 | Multiple Notification Requirements. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2264 | Designated Alternative Limits. | August 20, 2001 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2264.2 | Election of Applicable Limit for Gasoline Supplied From a Production or Import Facility. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2265 | Gasoline Subject to PM Alternative Specifications Based on the California Predictive Model. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2265.1 | Offsetting Emissions Associated with Higher Sulfur Levels. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2265.5 | Alternative Emission Reduction Plan (AERP). | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2266 | Certified Gasoline Formulations Resulting in Equivalent Emission Reductions Based on Motor Vehicle Emission Testing. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2266.5 | Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2267 | Exemptions for Gasoline Used in Test Programs. | September 2, 2000 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2268 | Liability of Persons Who Commit Violations Involving Gasoline That has Not Yet Been Sold or Supplied to a Motor Vehicle. | September 2, 2000 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2269 | Submittal of Compliance Plans. | December 24, 2002 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2270 | Testing and Recordkeeping. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2271 | Variances | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2272 | CaRFP Phase 3 Standards for Qualifying Small Refiners. | May 1, 2003 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |
| 2273 | Labeling of Equipment Dispensing Gasoline Containing MTBE. | August 29, 2008 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(375)(i)(A)(1). |
| 2273.5 | Documentation Provided with Delivery of Gasoline to Retail Outlets. | May 1, 2003 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| **Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 5 (Standards for Motor Vehicle Fuels); Article 2 (Standards for Diesel Fuel)** | | | | |
| 2281 | Sulfur Content of Diesel Fuel. | August 4, 2005 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |
| 2282 | Aromatic Hydrocarbon Content of Diesel Fuel. | August 4, 2005 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |
| 2284 | Lubricity of Diesel Fuel | August 4, 2005 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |
| 2285 | Exemption from Diesel Fuel Requirements for Military Specification Fuels Used in Qualifying Military Vehicles. | August 14, 2004 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |
| **Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 5 (Standards for Motor Vehicle Fuels); Article 4 (Sampling and Test Procedures)** | | | | |
| 2296 | Motor Fuel Sampling Procedures. | October 14, 1992 | August 21, 1995, 60 FR 43379. | Submitted on November 15, 1994. See 40 CFR 52.220(c)(204)(i)(A)(3). |
| 2297 | Test Method for the Determination of the Reid Vapor Pressure Equivalent Using an Automated Vapor Pressure Test Instrument. | September 17, 1991. | August 21, 1995, 60 FR 43379. | Submitted on November 15, 1994. See 40 CFR 52.220(c)(204)(i)(A)(3). |
| **Title 13 (Motor Vehicles), Division 3 (Air Resources Board), Chapter 14 (Verification Procedures, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines)** | | | | |
| 2701 | Definitions | January 1, 2005 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(1). |
| **Title 16 (Professional and Vocational Regulations), Division 33 (Bureau of Automotive Repair), Chapter 1 (Automotive Repair Dealers and Official Stations and Adjusters); Article 1 (General Provisions)** | | | | |
| 3303.1 | Public Access to License, Administrative Action, and Complaint Information. | July 20, 2007 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3303.2 | Review of Applications for Licensure, Registration and Certification; Processing Time. | July 9, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| **Title 16 (Professional and Vocational Regulations), Division 33 (Bureau of Automotive Repair), Chapter 1 (Automotive Repair Dealers and Official Stations and Adjusters); Article 5.5 (Motor Vehicle Inspection Program)** | | | | |
| 3340.1 | Definitions | June 29, 2006 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.5 | Vehicles Exempt from Inspections. | April 16, 1990 | January 8, 1997, 62 FR 1150. | Submitted on January 22, 1996. See 40 CFR 52.220(c)(234)(i)(A)(1)(iv). |
| 3340.6 | Vehicles Subject to Inspection upon Change of Ownership and Initial Registration in California. | April 16, 1990 | January 8, 1997, 62 FR 1150. | Submitted on January 22, 1996. See 40 CFR 52.220(c)(234)(i)(A)(1)(iv). |
| 3340.7 | Fee for Inspection at State Contracted Test-Only Facility. | August 17, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.9 | Repair Assistance Program. | October 30, 2000 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.10 | Licensing of Smog Check Stations. | July 26, 1996 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.15 | General Requirements for Smog Check Stations. | July 9, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS[1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 3340.16 | Test-Only Station Requirements. | August 1, 2007 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.16.5 | Test-and-Repair Station Requirements. | June 29, 2006 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.17 | Test Equipment, Electronic Transmission, Maintenance and Calibration Requirements. | June 29, 2006 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.18 | Gases and Blenders of Gases. | July 9, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.22 | Smog Check Station Signs. | April 16, 1990 | January 8, 1997, 62 FR 1150. | Submitted on January 22, 1996. See 40 CFR 52.220(c)(234)(i)(A)(1)(iv). |
| 3340.22.1 | Smog Check Station Service Signs. | February 1, 2001 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.22.2 | Smog Check Repair Cost Limit Sign. | February 1, 2001 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.22.3 | Replacement of Signs | September 17, 1992. | January 8, 1997, 62 FR 1150. | Submitted on January 22, 1996. See 40 CFR 52.220(c)(234)(i)(A)(1)(iv). |
| 3340.23 | Licensed Smog Check Station That Ceases Operating As a Licensed Station. | June 23, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.24 | Suspension, Revocation, and Reinstatement of Licenses. | June 23, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.28 | Licensing and Qualifications of Technicians. | January 17, 2009 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.29 | Licensing of Technicians. | January 17, 2009 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.30 | General Requirements for Licensed Technicians. | June 23, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.31 | Retraining of Licensed Technicians. | June 23, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.32 | Standards for the Certification of Institutions Providing Retraining to Licensed Technicians or Prerequisite Training to Those Seeking to Become Licensed Technicians. | July 9, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.32.1 | Standards for Decertification of Institutions Providing Retraining to Licensed Technicians or Prerequisite Training to Those Seeking to Become Licensed Technicians. | June 23, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.33 | Standards for the Certification of Basic and Advanced Instructors Providing Retraining to Intern, Basic Area, and Advanced Emission Specialist Licensed Technicians or Prerequisite Training to Those Seeking to Become Intern, Basic Area, or Advanced Emission Specialist Licensed Technicians. | February 1, 2001 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 3340.33.1 | Standards for the Decertification and Recertification of Instructors Providing Retraining to Licensed Technicians or Prerequisite Training to Those Seeking to Become Licensed Technicians. | June 23, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.35 | A Certificate of Compliance, Noncompliance, Repair Cost Waiver or an Economic Hardship Extension. | June 25, 1998 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.35.1 | A Certificate of Compliance, Noncompliance, Repair Cost Waiver or an Economic Hardship Extension Calculation. | December 2, 1998 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.36 | Clearing Enforcement Forms. | July 26, 1996 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.37 | Installation of Oxides of Nitrogen (NO$_X$) Devices. | July 26, 1996 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.41 | Inspection, Test, and Repair Requirements. | June 29, 2006 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.41.3 | Invoice Requirements | April 16, 1990 | January 8, 1997, 62 FR 1150. | Submitted on January 22, 1996. See 40 CFR 52.220(c)(234)(i)(A)(1)(iv). |
| 3340.41.5 | Tampering with Emissions Control Systems. | December 7, 1984 | January 8, 1997, 62 FR 1150. | Submitted on January 22, 1996. See 40 CFR 52.220(c)(234)(i)(A)(1)(iv). |
| 3340.42 | Mandatory Smog Check Inspection and Test Procedures, and Emission Standards. | January 11, 2008 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.50 | Fleet Facility Requirements. | February 15, 2002 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.50.1 | Application for Fleet Facility License; Renewal; Replacement. | April 16, 1990 | January 8, 1997, 62 FR 1150. | Submitted on January 22, 1996. See 40 CFR 52.220(c)(234)(i)(A)(1)(iv). |
| 3340.50.3 | Fleet Records and Reporting Requirements. | June 23, 1995 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.50.4 | Fleet Certificates | June 25, 1998 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3340.50.5 | Suspension or Rescission of Fleet Facility License. | June 25, 1998 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| **Title 16 (Professional and Vocational Regulations), Division 33 (Bureau of Automotive Repair), Chapter 1 (Automotive Repair Dealers and Official Stations and Adjusters); Article 10 (Gold Shield Program)** | | | | |
| 3392.1 | Gold Shield Program (GSP). | May 28, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3392.2 | Responsibilities of Smog Check Stations Certified as Gold Shield. | August 1, 2007 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3392.3 | Eligibility for Gold Shield Certification; Quality Assurance. | May 28, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3392.4 | Gold Shield Guaranteed Repair (GSGR) Program Advertising Rights. | May 28, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 3392.5 | Causes for Invalidation of Gold Shield Station Certification. | May 28, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3392.6 | Gold Shield Program Hearing and Determination. | May 28, 2003 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| **Title 16 (Professional and Vocational Regulations), Division 33 (Bureau of Automotive Repair), Chapter 1 (Automotive Repair Dealers and Official Stations and Adjusters); Article 11 (Consumer Assistance Program)** | | | | |
| 3394.1 | Purpose and Components of the Consumer Assistance Program. | October 30, 2000 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3394.2 | Consumer Assistance Program Administration. | October 30, 2000 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3394.3 | State Assistance Limits. | October 30, 2000 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3394.4 | Eligibility Requirements. | August 12, 2008 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3394.5 | Ineligible Vehicles | October 30, 2000 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| 3394.6 | Application and Documentation Requirements. | July 3, 2006 | July 1, 2010, 75 FR 38023. | Submitted on June 5, 2009. See 40 CFR 52.220(c)(372)(i)(A)(1). |
| **Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 7.5 (Airborne Toxic Control Measures)** | | | | |
| 93114 | Airborne Toxic Control Measure to Reduce Particulate Emissions from Diesel-Fueled Engines—Standards for Nonvehicular Diesel Fuel. | August 14, 2004 | May 12, 2010, 75 FR 26653. | Submitted on February 3, 2009. See 40 CFR 52.220(c)(376)(i)(A)(2). |
| **Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8 (Compliance with Nonvehicular Emissions Standards)** | | | | |
| 94000 | Test Procedures for Vapor Recovery Systems—Service Stations. | October 29, 1978 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 94001 | Certification of Vapor Recovery Systems—Service Stations. | October 29, 1978 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 94002 | Certification of Vapor Recovery Systems—Gasoline Bulk Plants. | October 29, 1978 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 94003 | Certification of Vapor Recovery Systems—Gasoline Terminals. | May 10, 1977 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| 94004 | Certification of Vapor Recovery Systems—Gasoline Delivery Tanks. | May 10, 1977 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| **Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8.5 (Consumer Products); Article 1 (Antiperspirants and Deodorants)** | | | | |
| 94500 | Applicability | March 30, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| 94501 | Definitions | July 20, 2005 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 94502 | Standards for Antiperspirants and Deodorants. | June 6, 2001 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| 94503 | Exemptions | March 30, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| 94503.5 | Innovative Products | March 30, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| 94504 | Administrative Requirements. | June 6, 2001 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| 94505 | Variances | March 30, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| 94506 | Test Methods | July 20, 2005 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| 94506.5 | Federal Enforceability | December 16, 1999 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(1). |
| **Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8.5 (Consumer Products); Article 2 (Consumer Products)** | | | | |
| 94507 | Applicability | November 19, 2000 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94508 | Definitions | December 10, 2011 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94509 | Standards for Consumer Products. | December 10, 2011 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94510 | Exemptions | December 10, 2011 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94511 | Innovative Products | October 20, 2010 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94512 | Administrative Requirements. | December 10, 2011 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94513 | Reporting Requirements. | October 20, 2010 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94514 | Variances | December 8, 2007 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94515 | Test Methods | December 10, 2011 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94516 | Severability | October 21, 1991 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| 94517 | Federal Enforceability | November 18, 1997 | October 17, 2014, 79 FR 62346. | Submitted on May 28, 2014. See 40 CFR 52.220(c)(444)(i)(A)(1). |
| **Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8.5 (Consumer Products); Article 3 (Aerosol Coating Products)** | | | | |
| 94520 | Applicability | January 8, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94521 | Definitions | July 18, 2001 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94522 | Limits and Requirements for Aerosol Coating Products. | July 18, 2001 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94523 | Exemptions | December 8, 2007 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94524 | Administrative Requirements. | July 18, 2001 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94525 | Variances | January 8, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94526 | Test Methods | July 20, 2005 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94527 | Severability | January 8, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| 94528 | Federal Enforceability | January 8, 1996 | November 4, 2009, 74 FR 57074. | Submitted on March 27, 2008. See 40 CFR 52.220(c)(365)(i)(A)(3). |
| **Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8.6 (Maximum Incremental Reactivity); Article 1 (Tables of Maximum Incremental Reactivity (MIR) Values)** | | | | |
| 94700 | MIR Values for Compounds. | July 18, 2001 | September 13, 2005, 70 FR 53930. | Submitted on March 13, 2002. See 40 CFR 52.220(c)(338)(i)(A)(1). |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS[1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 94701 | MIR Values for Hydrocarbon Solvents. | July 18, 2001 | September 13, 2005, 70 FR 53930. | Submitted on March 13, 2002. See 40 CFR 52.220(c)(338)(i)(A)(1). |

[1] Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

TABLE 2—EPA-APPROVED CALIFORNIA TEST PROCEDURES, TEST METHODS, AND SPECIFICATIONS

| Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|
| Method 2–1: Test Procedures for Determining the Efficiency of Gasoline Vapor Recovery Systems at Service Stations. | September 1, 1982 | May 3, 1984, 49 FR 18829. | Submitted on January 20, 1983. See 40 CFR 52.220(c)(149)(i)(A). |
| Method 2–2: Certification Procedures for Gasoline Vapor Recovery Systems at Service Stations. | August 9, 1978 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| Method 2–3: Certification and Test Procedures for Vapor Recovery Systems at Gasoline Bulk Plants. | August 9, 1978 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| Method 2–4: Certification and Test Procedures for Vapor Recovery Systems at Gasoline Terminals. | April 18, 1977 | July 8, 1982, 47 FR 29668. | Submitted on April 23, 1980. See 40 CFR 52.220(c)(69)(iv). |
| Method 2–5: Certification and Test Procedures for Vapor Recovery Systems of Gasoline Delivery Tanks. | September 1, 1982 | May 3, 1984, 49 FR 18829. | Submitted on January 20, 1983. See 40 CFR 52.220(c)(149)(i)(A). |
| Test Procedures for Gasoline Vapor Leak Detection Using Combustible Gas Detector. | September 1, 1982 | May 3, 1984, 49 FR 18829. | Submitted on January 20, 1983. See 40 CFR 52.220(c)(149)(i)(A). |
| California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model. | December 11, 1998 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(2). |
| California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing. | April 25, 2001 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(374)(i)(A)(4). |
| California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model. | August 7, 2008 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(375)(i)(A)(2). |
| Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB). | August 7, 2008 | May 12, 2010, 75 FR 26653. | Submitted on June 15, 2004. See 40 CFR 52.220(c)(375)(i)(A)(3). |

TABLE 3—EPA-APPROVED AMADOR COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 4—EPA-APPROVED ANTELOPE VALLEY AIR DISTRICT REGULATIONS; LOS ANGELES COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 5—EPA-APPROVED BAY AREA AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 6—EPA-APPROVED BUTTE COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 7—EPA-APPROVED CALAVERAS COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 8—EPA-APPROVED COACHELLA VALLEY PLANNING AREA ORDINANCES

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 9—EPA-APPROVED COLUSA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 10—EPA-APPROVED EASTERN KERN COUNTY AIR DISTRICT REGULATIONS; KERN COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 11—EPA-APPROVED EL DORADO COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 12—EPA-APPROVED FEATHER RIVER AIR DISTRICT REGULATIONS; SUTTER COUNTY AIR DISTRICT REGULATIONS; YUBA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 13—EPA-APPROVED GLENN COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 14—EPA-APPROVED GREAT BASIN UNIFIED AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 15—EPA-APPROVED IMPERIAL COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 16—EPA-APPROVED LAKE COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 17—EPA-APPROVED LASSEN COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 18—EPA-APPROVED MARIPOSA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 19—EPA-APPROVED MENDOCINO COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 20—EPA-APPROVED MODOC COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 21—EPA-APPROVED MOJAVE DESERT AIR DISTRICT REGULATIONS; RIVERSIDE COUNTY AIR DISTRICT REGULATIONS; SAN BERNARDINO COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 22—EPA-APPROVED MONTEREY BAY UNIFIED AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 23—EPA-APPROVED NORTH COAST UNIFIED AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 24—EPA-APPROVED NORTHERN SIERRA AIR DISTRICT REGULATIONS; NEVADA COUNTY AIR DISTRICT REGULATIONS; PLUMAS COUNTY AIR DISTRICT REGULATIONS; SIERRA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 25—EPA-APPROVED NORTHERN SONOMA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 26—EPA-APPROVED PLACER COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 27—EPA-APPROVED SACRAMENTO METROPOLITAN AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 28—EPA-APPROVED SAN DIEGO COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 29—EPA-APPROVED SAN JOAQUIN VALLEY UNIFIED AIR DISTRICT REGULATIONS; FRESNO COUNTY AIR DISTRICT REGULATIONS; KERN COUNTY AIR DISTRICT REGULATIONS; KINGS COUNTY AIR DISTRICT REGULATIONS; MADERA COUNTY AIR DISTRICT REGULATIONS; MERCED COUNTY AIR DISTRICT REGULATIONS; SAN JOAQUIN COUNTY AIR DISTRICT REGULATIONS; STANISLAUS COUNTY AIR DISTRICT REGULATIONS; TULARE COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 30—EPA-APPROVED SAN LUIS OBISPO COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 31—EPA-APPROVED SANTA BARBARA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 32—EPA-APPROVED SHASTA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 33—EPA-APPROVED SISKIYOU COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 34—EPA-APPROVED SOUTH COAST AIR DISTRICT REGULATIONS; LOS ANGELES COUNTY AIR DISTRICT REGULATIONS; ORANGE COUNTY AIR DISTRICT REGULATIONS; RIVERSIDE COUNTY AIR DISTRICT REGULATIONS; SAN BERNARDINO COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 35—EPA-APPROVED TEHAMA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 36—EPA-APPROVED TUOLUMNE COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 37—EPA-APPROVED TUOLUMNE COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 38—EPA-APPROVED VENTURA COUNTY AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

TABLE 39—EPA-APPROVED YOLO-SOLANO AIR DISTRICT REGULATIONS

| District citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| [Reserved] | | | | |

(d) *EPA-approved source-specific requirements.* [Reserved]

(e) *EPA-approved California nonregulatory provisions and quasi-regulatory measures.* [Reserved]

[FR Doc. 2016–12380 Filed 5–25–16; 8:45 am]

BILLING CODE 6560–50–P

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## SURFACE TRANSPORTATION BOARD

## 49 CFR Chapter X

**[Docket No. EP 735]**

## Revision to the Surface Transportation Board's CFR Chapter Heading Pursuant to the Surface Transportation Board Reauthorization Act of 2015

**AGENCY:** Surface Transportation Board.

**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is revising the heading to its CFR chapter, pursuant to the Surface Transportation Board Reauthorization Act of 2015.

**DATES:** Effective May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Amy C. Ziehm: (202) 245–0391. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** On December 18, 2015, the *Surface Transportation Board Reauthorization Act of 2015,* Public Law 114–110, 129 Stat. 2228 (2015) (STB Reauthorization Act), was enacted into law, removing the Board from the United States Department of Transportation (DOT), where it had been administratively housed, and establishing it as an independent Federal agency. 49 U.S.C. 701 (2012); STB Reauthorization Act section 3. Because 49 CFR chapter X is titled "Surface Transportation Board, Department of Transportation," the Board is revising it to "Surface Transportation Board" to reflect the agency's independent status.

As this change is not substantive, we find good cause to dispense with notice and comment under the Administrative Procedure Act (APA).[1] 5 U.S.C. 553(b)(3)(A)–(B).

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply.

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

*It is ordered*:

1. The rule modifications set forth below are adopted as final rules.
2. This decision is effective on May 26, 2016.

Decided: May 19, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

**Marline Simeon,**
*Clearance Clerk.*

For the reasons set forth in the preamble, under the authority of 49 U.S.C. 1321, the heading for title 49, chapter X, is revised to read as follows:

**CHAPTER X—SURFACE TRANSPORTATION BOARD**

[FR Doc. 2016–12346 Filed 5–25–16; 8:45 am]

BILLING CODE 4915–01–P

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[1] Board procedures allow for the issue of final rules without notice or comment when those rules are interpretive, general statements of policy, or relate to organization, procedure, or practice before the Board. See 49 CFR 1110.3(a).

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 222

**[Docket No. 140725620–6418–02]**

**RIN 0648–BE43**

## Endangered and Threatened Species: Designation of Experimental Populations Under the Endangered Species Act

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), issue final regulations to amend the Code of Federal Regulations (CFR) to implement the Endangered Species Act (ESA)

regarding experimental populations. This rule amends the CFR to establish definitions and procedures for: Establishing and/or designating certain populations of species otherwise listed as endangered or threatened as experimental populations; determining whether experimental populations are "essential" or "nonessential;" and promulgating appropriate protective measures for experimental populations.

**DATES:** The final rule is effective June 27, 2016.

**ADDRESSES:** Supplementary information used in the development of this rule, including the public comments received, may be viewed online at *http://www.regulations.gov* at FDMS Docket No. NOAA–NMFS–2014–0104.

**FOR FURTHER INFORMATION CONTACT:** Heather Coll, NMFS, Office of Protected Resources, (301) 427–8455.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 10(j)(1) of the ESA (16 U.S.C. 1539(j)(1)) defines an experimental population as a population that has been authorized for release by the Secretary of Commerce (Secretary) or Secretary of the Interior, but only when, and at such times as, the population is wholly separate geographically from nonexperimental populations of the same species. The Secretary may authorize the release (and related transportation) of any experimental population (including eggs, propagules, or individuals) of a listed species outside of the species' current range if the Secretary determines that the release would "further the conservation of" the listed species (16 U.S.C. 1539(j)(2)(A)). Section 10(j)(2)(B) also requires that, before authorizing the release of an experimental population, the Secretary "identify" the experimental population by regulation and determine, based on the best available information, whether the experimental population is "essential to the continued existence" of the listed species (16 U.S.C. 1539(j)(2)(B)).

Section 10(j) of the ESA further provides that each member of an experimental population shall be treated as a threatened species under the ESA, with two exceptions that apply if an experimental population is determined to be not essential to the listed species' continued existence (*i.e.,* is nonessential): (1) A nonessential experimental population (NEP) shall be treated as a species proposed for listing for purposes of section 7 of the ESA, except when the NEP occurs in an area within the National Wildlife Refuge System or the National Park System; and (2) critical habitat shall not be designated for a NEP. Treatment of an experimental population as "threatened" under the ESA enables the Secretary to issue regulations under the authority of section 4(d) of the ESA that he or she deems necessary and advisable to provide for the conservation of the species, which may be less restrictive than taking prohibitions that apply to endangered species under ESA section 9.

We have developed regulations providing NMFS's interpretation of, and procedures for, implementing ESA section 10(j). In developing our regulations, we reviewed the ESA, legislative history of the 1982 ESA amendments, existing U.S. Fish and Wildlife Service (USFWS) ESA section 10(j) regulations, public comments from the USFWS rulemaking to develop their ESA section 10(j) regulations, and public comments from our own recent experimental population designations; and consulted with USFWS staff. We then convened a group of NMFS staff with experience in ESA section 10(j) designations to draft our own 10(j) regulations.

We strove to maintain consistency between our regulations and the USFWS regulations as much as possible to provide for consistent implementation of ESA section 10(j) between the agencies. We are finalizing regulations that we believe are necessary to implement the statutory requirements in a manner appropriate for species under NMFS' jurisdiction, while also clarifying our interpretation of ESA section 10(j).

We published our proposed rule in the **Federal Register** for public comment, and after considering public comments, are issuing our final rule with four changes from the proposed rule (80 FR 45924; August 3, 2015). First, pertaining to listing at 50 CFR 222.502(c)(1), we removed the words "if appropriate" to describe what a listing regulation shall provide when an experimental population designation is made. Also regarding listing at 50 CFR 222.502(e), we added "local government entities" to the last sentence, which describes the entities that are part of the agreement when a regulation is promulgated for an experimental population. Regarding interagency cooperation at 50 CFR 222.504(a) and (b), we removed the language "designated for a listed species" because it was redundant, and because removing it makes the sentence simpler. This change is not intended to make our regulation functionally different than USFWS' corresponding regulation. Finally, also regarding interagency cooperation at 50 CFR 222.504, we added a paragraph (c), with the following language, to provide guidance and clarity in ESA section 7 consultations: "For purposes of section 7 of the Act, any consultation on a proposed Federal action that may affect both an experimental and a nonexperimental population of the same species should consider that species' experimental and nonexperimental populations to constitute a single listed species for the purposes of conducting the analyses under section 7 of the Act."

We provide a summary of public comments and our responses below.

## Summary of Comments

In our proposed regulations (80 FR 45924, August 3, 2015), we requested written comments from the public for 60 days, ending October 2, 2015, and we received nine comments. We received one request to extend the public comment period but did not do so, because we believe the 60-day comment period provided adequate time for comment. We considered all substantive information provided during the comment period and, where appropriate, incorporated explanations here and into the Background and Summary of Final Rule sections of this final rule.

We received seven substantive comments supporting the intent of our proposed regulations, agreeing with the overall rulemaking, and expressing appreciation for framing the NMFS ESA section 10(j) regulations in a manner that is consistent with FWS regulations. More specifically, most were very supportive of our: (1) Expansion of the stakeholder consultation and collaboration provision; and (2) our decision to explain the relationship between ESA sections 10(j) and 4(d). In addition to providing overall support for the proposed rule, the seven substantive commenters requested further clarification on several issues, and in some cases, requested specific language changes for the regulations. We summarize those comments and requests and provide our responses.

*Comment 1:* We received several comments related to proposed section 222.502(e). A few commenters requested that we clarify to what extent an experimental population designation is an "agreement" between interested parties. One commenter requested that we seek concurrence before a material change is made to an experimental population designation or ESA section 4(d) rule. One commenter requested that we specify that we would not proceed with a reintroduction if an interested party refuses to cooperate because of the determination regarding whether an experimental population is essential.

*Response 1:* The regulatory text at issue, as revised in this final rule, provides, "[a]ny regulation promulgated pursuant to this section shall, to the maximum extent practicable, represent an agreement between the National Marine Fisheries Service, the affected State and Federal agencies, tribal governments, local government entities, and persons holding any interest in land or water which may be affected by the establishment of an experimental population." We strongly believe that working with affected parties is critical to the success of experimental population designations and our intent is to reach agreement with all interested parties on these designations. The phrase "to the maximum extent practicable" is necessary, however, because within the process of trying to reach agreement, there are many potential stakeholders with different interests and perspectives and it is conceivable that, while most stakeholders are in agreement, there may be others who are not.

We foresee that material changes to an ESA section 10(j) rule would be rare, however, it is possible that they could be needed in rare circumstances in response to changed circumstances that we did not foresee or consider at the time we developed the ESA section 10(j) rule. In this case, we would seek input from all interested parties and obtain an agreement, to the maximum extent practicable, to move forward with that change. After receiving comments from the interested parties on a potential material change, we will decide whether to move forward with the change. Additionally, because we must promulgate a regulation in order to make the designation, we would provide the public an opportunity to comment on the proposed rulemaking to amend the designation.

Regarding the commenter's request that we would not proceed with a reintroduction if an interested party refuses to cooperate because of a disagreement regarding the determination whether the population is essential, it is our intention, as noted above, to reach agreement with all parties. If consensus is not possible, we must still proceed to make a determination as to whether an experimental population is essential based upon the best available information.

*Comment 2:* A few commenters requested that we clarify whether we intend to include local governments as interested parties we will work with toward agreement in an experimental population designation, and one commenter suggested specific language for including local governments.

*Response 2:* As provided in our proposed regulations, local governmental entities are among the entities we will consult with in developing and implementing experimental population rules. For this final rule, we added "local government entities" to the last sentence in 50 CFR 222.502(e), which describes the entities that are part of the agreement when a regulation is promulgated for an experimental population.

*Comment 3:* Many commenters supported the expansion of the stakeholder consultation provision to include those persons holding an interest in water. In addition, commenters requested we place this expansion within the regulatory text, as the commenters asserted it was only stated in the preamble of the proposed rule. Some commenters wanted us to further describe what we meant by interest in water and to list specific entities that would participate as stakeholders.

*Response 3:* The provision expanding stakeholder consultation to include those persons holding an interest in water was in the proposed regulatory text. It is included in the final regulation (50 CFR 222.502(e)).

We decline to further define "interest in water." As stated above, we strongly believe that consultations with affected parties are critical to the success of experimental population designations and our intent is to reach agreement with all interested parties on all aspects of these experimental population designations. We intend the universe of stakeholders in the consultation process to be inclusive and do not want to predefine who may be a stakeholder. The reason for this is that we consider "persons holding any interest in . . . water" to be broad and diverse, and to include, for example, those who have a legal, financial, cultural, aesthetic, or other interest.

*Comment 4:* One commenter asked us to elaborate on the interaction between this rule and our recent regulations modifying the definition of adverse modification and the procedures and standards used for critical habitat designation.

*Response 4:* We published a final rule to revise the Endangered Species Act (ESA) section 7(a)(2) regulatory definition of "destruction or adverse modification" that codifies the current policy and practice of the National Marine Fisheries Service and the Fish and Wildlife Service (81 FR 7214; February 11, 2016). We also published a final rule that amends portions of 50 CFR part 424 to clarify procedures for designating and revising critical habitat (81 FR 7413; February 11, 2016). This amendment made minor edits to the scope and purpose, added and removed some definitions, and clarified the criteria for designating critical habitat.

Our revisions to the procedures for designating and revising critical habitat are not expected to impact future ESA section 10(j) designations. Critical habitat cannot be designated for nonessential experimental populations. In the event that we identify critical habitat for an essential experimental population under ESA section 10(j), then these regulations would apply to the designation and resulting section 7 consultations.

*Comment 5:* One commenter requested that we include the same provision as USFWS related to analyses under ESA section 7 involving an experimental population, that we should consider any experimental and nonexperimental populations to constitute a single listed species for the purpose of conducting analyses under ESA section 7.

*Response 5:* We have added a provision related to analyses under ESA section 7 involving an experimental population to provide guidance and clarity. The final regulation (50 CFR 222.504(c)) states: "For purposes of section 7 of the Act, any consultation on a proposed Federal action that may affect both an experimental and a nonexperimental population of the same species should consider that species' experimental and nonexperimental populations to constitute a single listed species for the purposes of conducting the analyses under section 7 of the Act." Though this language differs from USFWS' language, none of the differences are intended to cause our regulation to functionally differ from USFWS's corresponding regulation.

*Comment 6:* One commenter requested that we include the same provision as USFWS regarding clarification of how critical habitat would be designated for an area of overlap between a nonexperimental population and an experimental population.

*Response 6:* This concern would only apply to essential experimental populations, because we cannot designate critical habitat for nonessential populations. The USFWS language the commenter refers to is: "[i]n those situations where a portion or all of an essential experimental population overlaps with a natural population of the species during certain periods of the year, no critical habitat shall be designated for the area of overlap." 50 CFR 17.81(f). We believe this language is unnecessary and could be misinterpreted to mean that there should be no critical habitat designated for either experimental or nonexperimental populations, which is not correct. Section 10(j) of the ESA states that populations will be recognized as experimental only when they are wholly separate geographically from nonexperimental populations. Thus, at times and locations where there is overlap, any critical habitat designation for the nonexperimental population will apply to the experimental population.

*Comment 7:* One commenter requested that we reconsider the 12-year expiration in the final rule designating Middle Columbia River steelhead trout as an experimental population.

*Response 7:* We have designated three experimental populations of salmonids based on the specific and unique circumstances for those populations. As we stated in the proposed regulations, we do not intend the final implementing regulations herein to require us to review or revise those existing designations. The implementing regulations we are finalizing in this rule do not alter the findings we made in our prior designations and rulemakings. Therefore, the existing designations will not change as a result of finalizing this rule.

With respect to future designations, we anticipate that designations having an expiration date will be rare. It is our intent that future experimental population designations will remain in place until the species is delisted. For further detail on delisting and revising experimental populations, see Response 11.

*Comment 8:* One commenter asked us to expand on the reasoning for removing "natural" as a qualifier from the term "current range" and asked whether this would increase or decrease areas where experimental populations could be established.

*Response 8:* ESA section 10(j)(2)(A) uses the phrase "outside the current range" rather than "outside the current natural range," which is used in the USFWS regulations, to identify the geographic area in which an experimental population is authorized for release. There is no definition of "range," "current range," or "current natural range" in the ESA or 50 CFR parts 222 (NMFS ESA implementing regulations) or 424 (Joint NMFS/USFWS ESA implementing regulations). The USFWS ESA section 10(j) regulations at 50 CFR 17.80 through 17.83 also do not define "natural." For this reason, including the word "natural" in the phrase "outside the current range" could be confusing. Removing the word "natural" eliminates this confusion. The term "current range" means the geographic area where the species is at the time of the designation. We do not anticipate that this will, as a general matter, increase or decrease areas where experimental populations could be established.

*Comment 9:* One commenter requested that we provide an example of when listing proposed location, migration, number of specimens to be released, as well as other criteria appropriate to identify experimental populations would not be appropriate to include in the rule designating the experimental population.

*Response 9:* In rules designating experimental populations, we will provide all of the best available information at that time for identifying the population. Over the course of implementing the rules, more specific information could emerge that was not available at the time of the rulemaking. For example, it is possible that not all of the information regarding proposed location, migration, number of specimens to be released, and other criteria appropriate to identify that experimental population would be available at the time of designating an experimental population.

For the final regulation we deleted the clause "if appropriate" because it appeared to apply to just the number of specimens released or to be released, whereas we intend that any means used to identify the experimental population would need to be appropriate to the specific scenario. The final regulation states: ". . . Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location; actual or anticipated migration; number of specimens released or to be released; and other criteria appropriate to identify the experimental population(s)" (50 CFR 222.502(c)(1))."

*Comment 10:* One commenter asked us to clarify that hatchery stocks not currently listed under the ESA will not be treated as threatened or as a species proposed for listing if an experimental population is established in the same area.

*Response 10:* If an unlisted hatchery stock co-occurs in the same geographic area as an experimental population, that hatchery stock's status would not change and it would not be treated as threatened or proposed for listing simply because it co-occurs with an experimental population.

*Comment 11:* One commenter requested that we clarify that an experimental population will retain that designation until the donor species is delisted because of recovery, asserting that the change would remove ambiguity about whether NMFS would remove a designation under section 10(j) of the ESA if the donor species is delisted due to extinction. Another commenter asked us to explain our position on revising the designation of an experimental population.

*Response 11:* As we stated in the preamble to the proposed rule, NMFS' intent when designating an experimental population under ESA section 10(j) is that the population will retain that designation until the donor species is delisted, or until, for some unforeseen reason, the experimental population fails, for example, due to lack of donor stock or problems with implementation (80 FR 45924; August 3, 2015). A species (here, donor species) is delisted either because of extinction, recovery, or because the original data for classification was in error (50 CFR 424.11(d)). In any decision to change the donor species' status, we would consider the role of experimental populations in contributing to the conservation of the species. This also clarifies our intent with regard to revising experimental population designations. Our intent is that experimental populations retain their designations until the donor species is delisted. We do have the authority to revise experimental population designations and, while we cannot predict all future circumstances, at this time we do not anticipate making such revisions. However, NMFS has the authority to revise experimental population designations and may need to do so if there is a substantial change in the circumstances that led to determinations in the original experimental population designation. In that case, NMFS would need to revise the rule designating the experimental population, which would be subject to the same rulemaking procedures as the original experimental population designation.

*Comment 12:* We received several comments voicing concern that no experimental populations have been designated as essential even though some experimental populations have "carried the future of the species on their backs." These commenters also urged us to include criteria, develop policy, or develop guidance on when an experimental population would be deemed essential.

*Response 12:* While we have not yet proposed designating any experimental population as essential, the statute and these regulations provide the potential for future opportunities to do so. We believe there is appropriate guidance laid out in the regulations, including the definition of "essential experimental population," and statute to designate an experimental population that we determine to be an essential experimental population.

*Comment 13:* One commenter stated that non-listed populations should not be used as sources to establish new populations that would be afforded any ESA protection (threatened or proposed). The commenter wanted to see more explicit language addressing this issue.

*Response 13:* ESA section 10(j) authorizes us to establish experimental populations of endangered or threatened species. It does not allow us to designate populations of non-listed species as experimental populations under ESA section 10(j). Therefore we do not believe additional language pertaining to non-listed species is necessary.

*Comment 14:* One commenter asked that we remove provisions that the commenter believed encourage restrictions on movement of experimental populations and suggested alternative regulatory text. Specifically, the commenter asserted that the language at 50 CFR 222.502(c)(3), "Management restrictions, protective measures, or other special management concerns of that population, which may include, but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from nonexperimental populations," would send a signal to the public that rules under section 10(j) of the ESA should always include specific measures to isolate/contain populations.

*Response 14:* We do not believe nor do we intend that our regulations encourage restrictions on movement of experimental populations. The language, "which may include, but are not limited to, measures to isolate and/or contain the experimental population designation," is language from the USFWS regulations that provides an example. We are trying to keep our changes from the USFWS regulations to a minimum; and we do not feel it is necessary to eliminate the subject language. At the time of experimental population designation, we will develop management restrictions, protective measures, and other special management concerns that are specific to the subject experimental population.

## Required Determinations

### *Information Quality Act and Peer Review*

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review pursuant to the Information Quality Act (Section 515 of Pub. L. 106–554), which was published in the **Federal Register** on January 14, 2005 (70 FR 2664). The Bulletin established minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation with regard to certain types of information disseminated by the Federal Government. The peer review requirements of the OMB Bulletin apply to influential or highly influential scientific information disseminated on or after June 16, 2005. There are no documents supporting this rule that meet this criteria.

### *Executive Order 12866*

This rule has been determined to be not significant under E.O. 12866.

### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 801 *et seq.*), whenever a Federal agency is required to publish a notification of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy at the Small Business Administration during the proposed rule stage that this action would not have a significant economic effect on a substantial number of small entities. There were no comments received regarding the certification. The following discussion explains our rationale.

The final regulations clarify how we implement the provisions of section 10(j) of the ESA. The final regulations do not materially alter our current practices or expand our reach. We are the only entity that is directly affected by this final rule because we are the only entity that can designate experimental populations of threatened or endangered species under NMFS jurisdiction. No external entities, including any small businesses, small organizations, or small governments, will experience any economic impacts from this final rule. Therefore, the only potential effect on any external entities large or small would likely be positive, through reducing any uncertainty on the part of the public about our process for designating experimental populations by formalizing our practices and procedures.

### *Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

1. This rule will not "significantly or uniquely" affect small governments. We have determined and certify under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments would not be affected because the regulation will not place additional requirements on any city, county, or other local municipalities.
2. This rule will not produce a Federal mandate of $100 million or greater in any year (*i.e.*, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act). This regulation would not impose any additional management or protection requirements on the States or other entities.

### *Executive Order 12630*

In accordance with E.O. 12630, this rule does not have significant takings implications. A takings implication assessment is not required because this rulemaking: (1) Would not effectively compel a property owner to have the government physically invade property, and (2) would not deny all economically beneficial or productive use of the land or aquatic resources. This rulemaking would substantially advance a legitimate government interest (conservation and recovery of listed species) and would not present a barrier to all reasonable and expected beneficial use of private property.

*Executive Order 13132*

In accordance with E.O. 13132, we have determined that this rule does not have federalism implications as that term is defined in E.O. 13132.

*Civil Justice Reform (E.O. 12988)*

This rule will not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of E.O. 12988. This rule clarifies how the Services will make designations under section 10(j) of the ESA: (1) Establishing and/or designating certain populations of species listed as endangered or threatened as experimental populations; (2) determining whether experimental populations are "essential" or "nonessential;" and (3) promulgating appropriate protective measures for experimental populations.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), require that Federal agencies obtain approval from OMB before collecting information from the public. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This rule does not include any new collections of information that require approval by OMB under the Paperwork Reduction Act.

*National Environmental Policy Act*

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(c)), the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), and NOAA's Administrative Order regarding NEPA compliance (NAO 216–6 (May 20, 1999)).

We have determined that this rule is categorically excluded from NEPA documentation requirements, consistent with 40 CFR 1508.4. We have determined that this action satisfies the standards for reliance upon a categorical exclusion under NOAA Administrative Order (NAO) 216–6. Specifically, this action fits within the categorical exclusion for "policy directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature." NAO 216–6, section 6.03c.3(i). This action would not trigger an exception precluding reliance on the categorical exclusion because it does not involve a geographic area with unique characteristics, is not the subject of public controversy based on potential environmental consequences, will not result in uncertain environmental impacts or unique or unknown risks, does not establish a precedent or decision in principle about future proposals, will not have significant cumulative impacts, and will not have any adverse effects upon endangered or threatened species or their habitats (*Id.* sec. 5.05c). As such, it is categorically excluded from the need to prepare an Environmental Assessment. In addition, we find that because this rule will not result in any effects to the physical environment, much less any adverse effects, there would be no need to prepare an Environmental Assessment even aside from consideration of the categorical exclusion. See, *e.g., Oceana, Inc.* v. *Bryson,* 940 F. Supp. 2d 1029 (N.D. Cal. April 12, 2013). Issuance of this rule does not alter the legal and regulatory status quo in such a way as to create any environmental effects. See, *e.g., Humane Soc. of U.S.* v. *Johanns,* 520 F. Supp. 2d. 8 (D.D.C. 2007).

*Government-to-Government Relationship With Tribes (E.O. 13175)*

E.O. 13175, Consultation and Coordination with Indian Tribal Governments, outlines the responsibilities of the Federal Government in matters affecting tribal interests. If we issue a regulation with tribal implications (defined as having a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes), we must consult with those governments or the Federal Government must provide funds necessary to pay direct compliance costs incurred by tribal governments.

We invited all interested tribes to discuss the rule with us at their convenience should they choose to have a government-to-government consultation. We received no such request for government-to-government consultation.

*Environmental Justice (E.O. 12898)*

E.O. 12898, Environmental Justice, requires that Federal actions address environmental justice in the decision-making process. This rule is not expected to have a disproportionately high effect on minority populations or low-income populations.

*Energy Supply, Distribution, or Use (E.O. 13211)*

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking any action that promulgates or is expected to lead to the promulgation of a final rule or regulation that (1) is a significant regulatory action under E.O. 12866 and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy.

This rule has been determined not to be a significant regulatory action under E.O. 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

**References Cited**

A complete list of all references cited in this rule is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

**List of Subjects in 50 CFR Part 222**

Endangered and threatened species.

Dated: May 20, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, part 222, of chapter II, title 50 of the Code of Federal Regulations, is amended as follows:

## PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

■ 1. The authority citation for part 222 continues to read as follows:

**Authority:** 16 U.S.C. 1531 *et seq.;* 16 U.S.C. 742a *et seq.*

■ 2. Add subpart E to read as follows:

**Subpart E—Experimental Populations**

Sec.
222.501 Definitions.
222.502 Listing.
222.503 Prohibitions.
222.504 Interagency cooperation.

### Subpart E—Experimental Populations

**§ 222.501 Definitions.**

(a) The term *experimental population* means any introduced and/or designated population (including any off-spring arising solely therefrom) that has been so designated in accordance with the procedures of this subpart but only when, and at such times as, the population is wholly separate geographically from nonexperimental populations of the same species. Where part of an experimental population overlaps with nonexperimental populations of the same species on a particular occasion, but is wholly separate at other times, specimens of the experimental population will not be recognized as such while in the area of overlap. That is, experimental status will only be recognized outside the areas of overlap. Thus, such a population shall be treated as experimental only when the times of geographic separation are reasonably predictable; *e.g.,* fixed migration patterns, natural or man-made barriers. A population is not treated as experimental if total separation will occur solely as a result of random and unpredictable events.

(b) The term *essential experimental population* means an experimental population whose loss would be likely to appreciably reduce the likelihood of the survival of the species in the wild. All other experimental populations are to be classified as *nonessential.*

### § 222.502 Listing.

(a) The Secretary may designate as an experimental population a population of endangered or threatened species that has been or will be released into suitable habitat outside the species' current range, subject to the further conditions specified in this section; *provided,* that all designations of experimental populations must proceed by regulation adopted in accordance with 5 U.S.C. 553 and the requirements of this subpart.

(b) Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Secretary must find by regulation that such release will further the conservation of the species. In making such a finding, the Secretary shall utilize the best scientific and commercial data available to consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere;

(2) The likelihood that any such experimental population will become established and survive in the foreseeable future;

(3) The effects that establishment of an experimental population will have on the recovery of the species; and

(4) The extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area.

(c) Any regulation promulgated under paragraph (a) of this section shall provide:

(1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location; actual or anticipated migration; number of specimens released or to be released; and other criteria appropriate to identify the experimental population(s);

(2) A finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild;

(3) Management restrictions, protective measures, or other special management concerns of that population, as appropriate, which may include, but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from nonexperimental populations and protective regulations established pursuant to section 4(d) of the Act; and

(4) A process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species.

(d) The Secretary may issue a permit under section 10(a)(1)(A) of the Act, if appropriate, to allow acts necessary for the establishment and maintenance of an experimental population.

(e) The National Marine Fisheries Service shall consult with appropriate State fish and wildlife agencies, affected tribal governments, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. When appropriate, a public meeting will be conducted with interested members of the public. Any regulation promulgated pursuant to this section shall, to the maximum extent practicable, represent an agreement between the National Marine Fisheries Service, the affected State and Federal agencies, tribal governments, local government entities, and persons holding any interest in land or water which may be affected by the establishment of an experimental population.

(f) Any population of an endangered species or a threatened species determined by the Secretary to be an experimental population in accordance with this subpart shall be identified by special rule in part 223 as appropriate and separately listed in 50 CFR 17.11(h) (wildlife) or 17.12(h) (plants) as appropriate.

(g) The Secretary may designate critical habitat as defined in section (3)(5)(A) of the Act for an essential experimental population as determined pursuant to paragraph (c)(2) of this section. Any designation of critical habitat for an essential experimental population will be made in accordance with section 4 of the Act. No designation of critical habitat will be made for nonessential experimental populations.

### § 222.503 Prohibitions.

(a) Any population determined by the Secretary to be an experimental population shall be treated as if it were listed as a threatened species for purposes of establishing protective regulations under section 4(d) of the Act with respect to such population.

(b) Accordingly, when designating, or revising, an experimental population under section 10(j) of the Act, the Secretary may also exercise his or her authority under section 4(d) of the Act to include protective regulations necessary and advisable to provide for the conservation of such species as part of the special rule for the experimental population. Any protective regulations applicable to the species from which the experimental population was sourced do not apply to the experimental population unless specifically included in the special rule for the experimental population.

### § 222.504 Interagency cooperation.

(a) Any experimental population determined pursuant to paragraph (c) of this section not to be essential to the survival of that species and not occurring within the National Park System or the National Wildlife Refuge System, shall be treated for purposes of section 7 of the Act (other than subsection (a)(1) thereof) as a species proposed to be listed under the Act as a threatened species, and the provisions of section 7(a)(4) of the Act shall apply.

(b) Any experimental population that either has been determined pursuant to paragraph (c) of this section to be essential to the survival of that species, or occurs within the National Park System or the National Wildlife Refuge System as now or hereafter constituted, shall be treated for purposes of section 7 of the Act as a threatened species, and the provisions of section 7(a)(2) of the Act shall apply.

(c) For purposes of section 7 of the Act, any consultation on a proposed Federal action that may affect both an experimental and a nonexperimental population of the same species should consider that species' experimental and nonexperimental populations to constitute a single listed species for the purposes of conducting the analyses under section 7 of the Act.

[FR Doc. 2016–12379 Filed 5–25–16; 8:45 am]

**BILLING CODE 3510–22–P**

# Proposed Rules

**Federal Register**
Vol. 81, No. 102
Thursday, May 26, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 370

### Recordkeeping for Timely Deposit Insurance Determination

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On February 26, 2016, the FDIC published in the **Federal Register** a notice of proposed rulemaking entitled "Recordkeeping for Timely Deposit Insurance Determination" and solicited public comment. To allow the public more time to consider this proposed rulemaking and the issues and questions posed for comment, particularly those related to the estimated cost of compliance, the FDIC has determined that an extension of the comment period for an additional 30-day period ending June 27, 2016, is appropriate.

**DATES:** The comment period for the proposed rule published February 26, 2016 (81 FR 10026), is extended. Comments must be received on or before June 27, 2016.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal.* Follow the instructions for submitting comments on the Agency Web site.
- *Email: Comments@FDIC.gov.* Include "Recordkeeping for Timely Deposit Insurance Determination" in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EST).
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Public Inspection:* All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

**FOR FURTHER INFORMATION CONTACT:** Marc Steckel, Deputy Director, Division of Resolutions and Receiverships, 571–858–8224; Teresa J. Franks, Associate Director, Division of Resolutions and Receiverships, 571–858–8226; Shane Kiernan, Counsel, Legal Division, 703–562–2632; Karen L. Main, Counsel, Legal Division, 703–562–2079.

**SUPPLEMENTARY INFORMATION:** In its notice of proposed rulemaking entitled "Recordkeeping for Timely Deposit Insurance Determination" (the "NPR" or the "proposed rule"), the FDIC introduced potential new requirements for certain large and complex insured depository institutions to ensure that depositors have prompt access to insured funds in the event of a failure.[1] The FDIC sought comment on all aspects of the proposed rule and requested that commenters respond to numerous questions within the 90-day comment period ending May 26, 2016.

In connection with the development of the advance notice of proposed rulemaking that preceded the NPR, an independent consulting firm was retained by the FDIC to develop cost estimates in order to estimate the expected costs of implementing additional information technology capabilities and recordkeeping requirements to facilitate prompt payment of FDIC-insured deposits when large insured depository institutions fail. The FDIC has placed a copy of the independent consulting firm's report in the comment file for the proposed rule (available at *https://www.fdic.gov/regulations/laws/federal/2016/2016_recordkeeping_3064-AE33.html*). The report has been redacted to ensure confidentiality of proprietary information. In order to provide the public sufficient time to review and consider the independent consulting firm's report when commenting on the proposed rule, the FDIC is extending the comment period for an additional 30 days. The comment period will now close on June 27, 2016.

Dated at Washington, DC, this 20th day of May 2016.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2016–12325 Filed 5–25–16; 8:45 am]

BILLING CODE 6714–01–P

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## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Parts 1200, 1201, 1229, 1238, 1239, 1261, 1264, 1266, 1267, 1269, 1270, 1273, 1274, 1278, 1281, 1290, and 1291

### RIN 2590–AA80

### Technical and Conforming Changes and Corrections to FHFA Regulations

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) proposes to amend its rules to make a number of conforming changes and corrections intended to fix citations, provide for consistent use of terminology, and remove outdated or duplicative rule provisions and definitions. FHFA also proposes to remove provisions that FHFA believes are no longer applicable, clarify other provisions by incorporating language that would implement existing FHFA regulatory interpretations, and make other changes and corrections.

**DATES:** Written comments must be received on or before July 25, 2016.

**ADDRESSES:** You may submit your comments, identified by Regulatory Information Number (RIN) 2590–AA80, by any of the following methods:

- *Agency Web site: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure

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[1] 81 FR 10026.

timely receipt by the FHFA. Please include "Comments/RIN 2590–AA80" in the subject line of the submission.

- *Courier/Hand Delivery:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA80, Federal Housing Finance Agency, 400 Seventh Street, SW., Eighth Floor, Washington, DC 20219. Deliver the package to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA80, Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20219.

**FOR FURTHER INFORMATION CONTACT:** Thomas E. Joseph, Associate General Counsel, *Thomas.Joseph@fhfa.gov,* 202–649–3076 (this is not a toll-free number), Office of General Counsel, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## I. Comments

FHFA invites comments on all aspects of this proposed rule. After considering all comments, FHFA will issue a final rule. FHFA will post without change copies of all comments received on the FHFA Web site at *http://www.fhfa.gov,* and will include any personal information you provide, such as your name, address, email address, and telephone number. FHFA will make copies of all comments timely received available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, 400 Seventh Street, SW., Eighth Floor, Washington, DC 20219. To make an appointment to inspect comments, please call the Office of General Counsel at 202–649–3804.

## II. Background

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA)[1] created FHFA as a new independent agency of the federal government. HERA transferred to FHFA the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, Enterprises), and of the Federal Housing Finance Board (Finance Board) over the Federal Home Loan Banks (Banks) and the Bank System's Office of Finance. Under the legislation, the Enterprises, the Banks, and the Office of Finance continue to operate under regulations promulgated by OFHEO and the Finance Board until such regulations are superseded by regulations issued by FHFA.[2]

## III. The Proposed Rule

### *A. The Proposed Amendments*

Since 2008, FHFA has amended, readopted, and transferred a number of the Finance Board or OFHEO regulations. Given that this process has occurred over several years, not all cross-references in the current FHFA regulations continue to be correct. In addition, in January 2013, FHFA adopted 12 CFR part 1201 (part 1201), which provides general definitions of terms used in all FHFA's regulations. Not all terminology in FHFA's regulations is consistent with the terms in part 1201. FHFA has also identified certain provisions in its regulations that require corrections to bring them more in line with statutory mandates. Finally, a number of provisions in the current regulations apply to now-completed transition periods or events or otherwise would not have future applicability to the Enterprises or the Banks. As a result, FHFA can remove these provisions from its regulations.

Accordingly, FHFA proposes to amend its regulations to make a number of technical and conforming changes and corrections that would fix citations, provide for consistent use of terminology, and remove outdated or duplicative provisions and definitions. While most of these changes represent technical corrections, some of the proposed changes would remove provisions that FHFA believes are no longer applicable, clarify provisions to incorporate existing FHFA regulatory interpretations of the particular rule, or change provisions to better reflect statutory requirements. As a result, FHFA has determined to request public comments on all of the proposed changes. A brief description of the amendments FHFA is proposing for specific parts of its regulations follows.

*Part 1200—Organization and Functions.* FHFA proposes to add to part 1200 new § 1200.4, which would set forth information the agency is required to be displayed under the Paperwork Reduction Act of 1995 (PRA).[3] Among other things, the PRA and the implementing regulations of the Office of Management and Budget (OMB) generally require that each collection of information display a currently valid OMB control number and expiration date, as well as a statement informing persons to whom the collection is addressed that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.[4] In the case of collections of information contained in regulatory provisions, an agency may display the OMB control numbers and expiration dates associated with all such collections, as well as the required PRA statement, in a single CFR section.[5]

Proposed § 1200.4 displays the required PRA statement and includes a table listing all sections of FHFA's regulations that contain a collection of information and displaying, for each section, the OMB control number assigned to the collection of information contained therein, as well as the expiration date for each control number. A similar table addressing most of the same collections of information appeared in the regulations of the Finance Board, but was inadvertently omitted when FHFA transferred a number of administrative provisions from the former agency's regulations to its own in 2012.

*Part 1201—General Definitions.* FHFA proposes to amend the definition of "Bank System" to reflect that following the merger of the Des Moines and Seattle Banks, there are no longer twelve Banks. FHFA also proposes to add to § 1201.1 a new definition for the term "president," when the term is used in a regulation to refer to an officer of a Bank, to mean a Bank's principal executive officer. The new definition would account for the possibility that a Bank might identify its principal executive officer by a title other than president and helps define by function, and not only by title, to which Bank executive officer FHFA intends to refer in a particular regulatory provision.

*Part 1229—Capital Classifications and Prompt Corrective Action.* FHFA proposes to change the definition of "new business activity" in § 1229.1 to correct the citation to the new business activity regulation, which is now found at 12 CFR part 1272, and provide that "new business activity" has the same meaning set forth in § 1272.1. The proposed rule would also amend the definition of "total capital" to remove language that applied only to Banks that had not yet issued Class A or Class B stock, as required by the Gramm-Leach-Bliley Act (GLB Act). Given that all Banks have now converted to the GLB Act capital structure, the language that FHFA proposes to remove no longer has any effect.

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[1] Public Law 110–289, 122 Stat. 2654.

[2] *See* 12 U.S.C. 4511, note.

[3] 44 U.S.C. 3501–3531.

[4] 44 U.S.C. 3506(c)(1)(B); 5 CFR 1320.8(b).

[5] *See* 12 CFR 1320.3(f); 1 CFR 21.35.

FHFA also proposes to amend § 1229.6, which addresses mandatory restrictions that apply to "undercapitalized" Banks, to incorporate the substance of a regulatory interpretation that had addressed the circumstances under which an undercapitalized Bank may make capital distributions, such as through the payment of dividends or the repurchase or redemption of its capital stock. By statute, a Bank may not make any capital distribution if, after doing so, the Bank would be undercapitalized. The statute also includes an exception, under which a Bank may repurchase or redeem its capital stock if the Director of FHFA (Director) has determined that the transaction would be made in connection with the issuance of other capital instruments of at least an equivalent amount and would improve the entity's financial health.[6] FHFA's regulations restate that statutory exception.[7] The proposed rule would incorporate the substance of Regulatory Interpretation 2009–RI–03 (December 14, 2009), which had made clear that a Bank that already is undercapitalized (as opposed to one that would become undercapitalized as a result of the capital distribution) cannot redeem or repurchase its stock unless it can satisfy the statutory exception described above. The proposed rule would amend the current § 1229.6(a)(3) to state explicitly that a Bank that has been designated as undercapitalized may not make any capital distribution unless it has satisfied the requirements of the § 1229.5(b) exemption. The proposed rule also would retain the other provisions of the existing regulation, which require that any capital distribution not result in the Bank becoming significantly undercapitalized or critically undercapitalized, and not otherwise violate any restrictions on repurchase or redemption of Bank stock or payments of dividends set forth in the Federal Home Loan Bank Act "Bank Act" or FHFA's regulations.

FHFA also proposes to correct a cross-reference in § 1229.7(a) which now reads "§ 1229.7 and § 1229.8" and should read "§§ 1229.8 and 1229.9".

*Part 1238—Stress Testing of Regulated Entities.* FHFA proposes to replace the existing references in § 1238.1 to "the Federal Housing Finance Agency," "the Federal Housing Enterprises Financial Safety and Soundness Act of 1992," and "the Federal Home Loan Bank Act" with a shorter form for each of the terms, as now defined by part 1201. FHFA also proposes to remove from the definition section of § 1238.2, three terms that part 1201 already defines, given that the definitions of these terms in part 1238 are now duplicative.

*Part 1239—Responsibilities of Boards of Directors, Corporate Practices, and Corporate Governance.* FHFA proposes to amend provisions in 12 CFR part 1239 related to Bank audit committees to correct the current FHFA regulation to conform with statutory requirements set forth in section 38(b) of the Securities Exchange Act of 1934 (1934 Act).[8] Section 38(b) of the 1934 Act specifically directs each Bank to comply with the rules issued by the Securities and Exchange Commission (SEC) under section 10A(m) of the 1934 Act.[9] In turn, section 10A(m) of the 1934 Act requires the SEC by rule to direct national securities exchanges and national securities associations to prohibit the listing of any company that does not comply with the standards established by the SEC in the regulation. Section 10A(m) also establishes certain minimum standards for audit committees related to the independence of committee members and the responsibility of the committee for the oversight of the external auditor and the work performed by the auditor as well as other matters. In 2003, the SEC adopted Rule 10A–3, 17 CFR 240.10A–3, to implement section 10A(m) of the 1934 Act.[10]

While the SEC rules apply to national securities exchanges and national securities associations and set minimum requirements for listed companies on exchanges, FHFA's judgment is that, because section 38(b) of the 1934 Act separately directs the Banks to comply with these rules, the Banks' audit committees also should be subject to these requirements, even though Bank stock is not listed on any exchange. As a result, FHFA is proposing to amend its regulation regarding Bank audit committees so that it conforms to the minimum standards adopted by the SEC.

Thus, the proposed amendments would add a requirement that the audit committee charter vest in the audit committee direct responsibility for the appointment, compensation, retention, and oversight of the work of the external auditor and provide that the external auditor report directly to the audit committee.[11] The amendments would also require that the charter provide for a Bank to make available appropriate funding, as determined by the audit committee, for the payment of compensation to the external auditor, to any independent advisors or counsel engaged by the audit committee, and for ordinary administrative expenses that are necessary or appropriate for the audit committee to carry out its duties.[12]

The proposed rule would also add to the list of Bank audit committee duties in the existing FHFA regulation new § 1239.4(e)(10), which would give the audit committee responsibility for establishing procedures for the receipt and treatment of complaints regarding accounting, internal accounting controls, or auditing matters, and for the confidential, anonymous submission by Bank employees of concerns regarding questionable accounting or auditing matters.[13] Further, the proposed amendments would remove from this list of specific duties, the provision directing a Bank's audit committee to make recommendations to the full board of directors on the appointment, compensation, and retention of the external auditor, given that the proposal already would vest in the audit committee direct responsibility for these matters.

Because other provisions of existing regulations already require all regulated entity committees to have the authority to engage staff, outside counsel, independent accountants, or other consultants, as needed to carry out their responsibilities, FHFA is not proposing to amend the audit committee provisions of § 1239.32 to address that same topic, even though the 1934 Act and SEC rules pertaining to audit committees specifically address that topic.[14] Although, section 10A(m) of the 1934 Act also establishes independence requirements for audit committee members, FHFA is not proposing to apply those requirements to the Banks, but instead will retain the existing provisions, which establish independence requirements that reflect the unique cooperative structure of the Banks. Other provisions of the Bank Act address the size and composition of boards of directors for the Banks and contemplate that a majority of the board will be "member directors," *i.e.*, persons who typically are executive officers of depository institutions that are members, and hence customers, of the Banks. Because Congress has effectively required that a majority of a Bank's board of directors be drawn from the ranks of the Bank's customers, it is possible, and indeed likely, that multiple members of a Bank's board of directors will have substantial business relationships with the Bank, which is the essence of a cooperative institution. Recognizing that fact, FHFA's existing regulations establish independence requirements for Bank audit committees that are consistent with the Bank Act, in that they are intended to promote the exercise of independent and objective judgment by audit committee members, but are also tailored to be consistent with the provisions of the Bank Act that have established the Banks as cooperative institutions.[15]

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[6] *See* 12 U.S.C. 4614(e).

[7] *See* 12 CFR 1229.5(b).

[8] 12 U.S.C. 78*oo*(b). Section 38 was added to the 1934 Act by HERA. When FHFA recently amended and readopted Bank audit committee requirements in part 1239 of its regulations, it carried over pre-HERA Finance Board requirements related to a Bank's audit committee charters and responsibilities without substantive change. *See* Final Rule: Responsibilities of Boards of Directors, Corporate Practices and Corporate Governance Matters, 80 FR 72327, 72335 (Nov. 19, 2015).

[9] 12 U.S.C. 78j–1(m). The Sarbanes-Oxley Act added subsection (m) to section 10A of the 1934 Act. Public Law 107–204, section 301, 116 Stat. 775–777 (2002).

[10] *See,* Final Rule: Standards Related to Listed Company Audit Committees, 68 FR 18788 (Apr. 16, 2003).

[11] *See* 15 U.S.C. 78j–1(m)(2) and 17 CFR 240.10A–3(b)(2). In adopting this specific provision, the SEC noted that the rule was not intended to conflict with any requirement under a company's governing laws or documents and discussed how the provision should be interpreted when a conflict existed. *See id.* at 18796–97. FHFA does not believe that any such conflict exists with regard to the Bank audit committees, given that Banks are chartered under federal law and federal law specifies that the minimum standards adopted in the SEC rule apply to the Banks.

[12] *See* 15 U.S.C. 78j–1(m)(6) and 17 CFR 240.10A–3(b)(5).

[13] *See* 15 U.S.C. 78j–1(m)(4) and 17 CFR 240.10A–3(b)(3).

*Part 1261—Federal Home Loan Bank Directors.* FHFA is proposing a number of revisions to subpart B of part 1261, which governs the eligibility and election of the Banks' boards of directors, to correct unintended errors and omissions arising from earlier rulemakings, as well as to remove obsolete provisions.

In § 1261.2, FHFA proposes to add a definition for the term "Advisory Council" and to define the term to mean the Advisory Council each Bank is required to establish pursuant to section 10(j)(11) of the Bank Act (12 U.S.C. 1430(j)(11)) and part 1291. The proposed definition is identical to the definition of "Advisory Council" that would appear in § 1290.1, as revised by this proposed rule.

FHFA proposes to remove from the definition of "member directorship" in § 1261.2 the concluding phrase, which specifies that the term "includes guaranteed directorships and stock directorships," and to remove in its entirety the definition of "stock directorship." The definition of "guaranteed directorship" was removed from the regulation in 2009. The references to "guaranteed directorships" and "stock directorships" in § 1261.2, as well as those in §§ 1261.4(b) and 1261.8(c) (discussed below), are the last vestiges of a former regulatory regime that made distinctions between different types of member directorships (previously called "elective directorships") as a means of determining the specific directors who would relinquish their seats if the Bank System regulator ordered a Bank's board to eliminate directorships representing a particular state. Those terms and the distinctions they represent are no longer connected to any substantive requirement of the regulation or to any policy or practice of FHFA and, therefore, the remaining references to them should be removed.

To explain more fully, the Bank Act authorizes the Director to establish the size and composition of each Bank's board of directors.[16] The regulations provide that the Director will determine annually the total number of directorships, as well as the relative number of member directorships and independent directorships, that each Bank's board of directors will comprise in the following calendar year.[17] The Bank Act also requires the Director annually to allocate the member directorships among the states of each Bank district in proportion to the relative amounts of Bank stock that all of the members in each state were required to hold as of the end of the preceding calendar year.[18] As a general matter, each state is entitled to have at least one member directorship, or the number of member directorships allocated to it in 1960 if greater.[19] In any given year, it is possible that the designation of directorships process can result in a state that currently has more than the minimum number of member directorships guaranteed to it under the statute losing a directorship for the following year.[20] When this occurs, a decision must be made about which individual member director must relinquish his or her directorship. Prior regulatory regimes addressed this issue by designating each member directorship as a "guaranteed directorship," a "stock directorship," or a "discretionary directorship," and requiring each Bank's board to specify which individuals occupied each of those types of directorships.[21] An individual occupying a "stock" or "discretionary" directorship could be required to leave the board if the annual designation of directorships eliminated a member directorship for that state. Individuals occupying a "guaranteed directorship" could not be required to relinquish their seats under those circumstances. During that time, the regulations also set forth criteria for determining which individuals should be assigned to each type of member directorship, generally requiring that nominees receiving the greatest number of votes were to be assigned to guaranteed directorships, with directors who received fewer votes being assigned to the non-guaranteed directorship, assuming both types of directorships were to be filled in the same election.

Prior to the enactment of HERA in 2008, the Finance Board had removed most of those substantive regulatory provisions.[22] After HERA repealed the provisions authorizing "discretionary directorships," FHFA removed the references to those directorships from its regulations.[23] In 2009, FHFA also removed the definition of "guaranteed directorship" from the regulations, although that appears to have been done in error.[24] Since HERA, FHFA has not distinguished between "guaranteed directorships" and "stock directorships" when the designation of directorships process requires the elimination of a member directorship. In such cases, if the affected state has a member directorship scheduled to expire at the end of the year, FHFA has required that the Bank eliminate that directorship. If a state has no expiring member directorships, then FHFA has required the Bank's board of directors to decide which specific seat is to be eliminated. For these reasons, the references to "guaranteed directorships" and "stock directorships" are no longer necessary and, accordingly, should be removed to avoid any implication that FHFA still applies those concepts in practice.

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[14] This SEC requirement is found at 15 U.S.C. 78j–1(m)(5) and 17 CFR 240.10A–3(b)(4). Section 1239.4(d) of the FHFA regulation authorizes any committee of a Bank's board of directors, which would include the audit committee, to engage at the expense of the Bank, staff, outside counsel, independent accountants, or consultants as needed to carry out its duties. *See* 12 CFR 1239.4(d).

[15] *See* 12 CFR 1239.32(c). *See, also,* Proposed Rule: Responsibilities of Boards of Directors, Corporate Practices and Corporate Governance Matters, 79 FR 4414, 4417–18, 4420–21 (Jan. 28, 2014).

[16] *See* 12 U.S.C. 1427(a)–(c). The statute provides that each Bank is to have a board of 13 directors, "or such other number as the Director determines appropriate." 12 U.S.C. 1427(a)(1). Because of the interrelationship of the other statutory provisions governing the composition of Bank's boards, in most cases it is not possible for the size of a Bank's board of directors to be as small as 13. It further specifies that a majority of each Bank's board of directors must be "member directors," while not less than 40 percent must be "independent directors." 12 U.S.C. 1427(a)(2).

[17] 12 CFR 1261.3(a).

[18] *See* 12 U.S.C. 1427(c).

[19] 12 U.S.C. 1427(c). The grandfather provision does not apply to the allocation of member directorships to the board of a Bank created as a result of the merger of two or more predecessor Banks.

[20] The regulation provides that, when the annual designation of directorships results in the elimination of an existing member directorship for a state, the directorship shall be deemed to terminate as of December 31 of that year. *See* 12 CFR 1261.4(e).

[21] Prior to the enactment of the HERA amendments, the Bank Act generally set the number of directors on each Bank's board at 14—8 elective directors and 6 appointive directors—but authorized the Bank System regulator, in its discretion, to add additional seats to the boards of Banks in districts comprising more than five states. *See* 12 U.S.C. 1427(a) (2001). In its regulation on Bank directors, the Finance Board referred to these additional directorships as "discretionary directorships."

[22] *See* 72 FR 15627 (Apr. 2, 2007).

FHFA is also proposing to make a clarifying revision to the definition of "Public interest directorship" by replacing the words "four years experience" with the words "four years of experience."

Section 1261.3(b) currently provides that, in most cases, the "term of office of each directorship commencing on or after January 1, 2009 shall be four years." FHFA proposes to remove from that provision the obsolete qualifying phrase "commencing on or after January 1, 2009." That qualifier was originally included to make clear that only those full terms beginning after the HERA amendments to the Bank Act increased the length of directorship terms from three to four years would run for four years. Because all directorship terms that commenced prior to January 1, 2009 have now expired, it is no longer necessary to distinguish between terms that began before and after the enactment of the HERA amendments terms going forward. In § 1261.3(e), FHFA proposes to revise two incorrect references to dates specified in or pursuant to "this part" to refer correctly to those specified in or pursuant to "this subpart."

FHFA proposes to make several revisions to § 1261.4, which deals with the designation of member directorships. First, FHFA proposes to replace the existing heading for paragraph (a), which reads "Determination of voting stock," with a new heading, which would read "Capital stock reports." While § 1261.4(a) requires each Bank to provide to FHFA a capital stock report indicating, among other things, the number of shares of Bank stock that each of its members was required to hold as of the defined record date, the provision does not actually address the determination of voting stock (that topic is addressed in § 1261.6). The new heading more accurately reflects the subject matter of § 1261.4(a). In conjunction with its proposal to remove references to the obsolete terms "guaranteed directorship" and "stock directorship" from § 1261.2, FHFA also proposes to remove from the heading for § 1261.4(b), which currently reads "Designation of member directorships as stock directorships," the reference to "stock directorships."

FHFA also proposes to remove from § 1261.4(a)(2) and (b) language that specifies how Banks that had not converted to the capital structure established by the GLB Act were to determine the minimum amount of Bank stock that each member must own. Given that all Banks have now converted to the GLB Act capital structure, there is no longer any need for these provisions. For consistency with other provisions in subpart B, FHFA also proposes to replace the phrase "December 31 of the preceding calendar year" that appears in § 1261.4(b) with the term "record date"—a contextually synonymous term that is defined in existing § 1261.2 to mean "December 31 of the calendar year immediately preceding the election year."

In § 1261.5, FHFA proposes to remove the paragraph designated as "(2)" that appears at the end of the section, immediately following § 1261.5(e), as no longer relevant. FHFA intended to remove that paragraph as part of a 2010 rulemaking, but inadvertently failed to include its removal in the amendatory instructions.[25]

In § 1261.6(b), which specifies how Banks are to determine the number of votes each member may cast in an election for directors, FHFA proposes to remove obsolete language regarding the treatment of Banks that have not yet converted to the capital structure established by the GLB Act that is similar to the language it is proposing to remove from § 1261.4(a)(2) and (b).

In § 1261.7(a), which includes introductory text followed by five paragraphs numbered (1) through (5), FHFA proposes to remove the designation "(1)" that was mistakenly inserted preceding the introductory text. FHFA proposes to remove from both § 1261.7(d)(1)(i) and (e)(2) the words "four years experience" and, in both cases, to replace those words with the words "four years of experience." In § 1261.8(a), which addresses the requirements for ballots in elections for Bank directors, FHFA proposes to re-insert the introductory paragraph to § 1261.8(a)(1), which was mistakenly removed in a 2009 rulemaking.[26] That paragraph would precede the paragraphs designated as (a)(1)(i) through (v) and would state that a ballot shall include at least the following provisions. While FHFA is only proposing to add the introductory text to paragraph (a)(1), the proposed rule would readopt all of paragraph (a) to avoid any confusion on this matter.

In conjunction with its proposal, discussed in detail above, to remove references to the obsolete terms "guaranteed directorship" and "stock directorship" from § 1261.2, FHFA is proposing to remove from § 1261.8(c) the only other reference to those terms that still appears in the regulatory text of existing part 1261. Section 1261.8(c) requires, with respect to the nomination and election of individuals to serve as member directors representing a particular state in any given year, that if the number of nominees is equal to or fewer than the number of member directorships to be filled in that year's election, the Bank shall declare elected all eligible nominees without conducting any balloting. The existing provision further requires that in doing so the Bank shall designate particular nominees to guaranteed directorships or stock directorships, respectively, if necessary. FHFA proposes to remove the latter requirement.

FHFA is also proposing to amend a provision of § 1261.9 in order to clarify that certain limitations on a Bank's involvement in the election of directors do not preclude it from seeking to identify a more diverse pool of prospective member director candidates.[27] In 2008, Congress amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) to require each regulated entity to establish an Office of

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[23] *See* 73 FR 55710 (Sept. 26, 2008).

[24] *See* 74 FR 51452 (Oct. 7, 2009).

[25] *See* Proposed Rule: Federal Home Loan Banks Boards of Directors: Eligibility and Elections, 74 FR 62708, 62709 (Dec. 1, 2009); and Final Rule: Federal Home Loan Bank Directors' Eligibility, Elections, Compensation and Expenses, 75 FR 17037 (Apr. 5, 2010).

[26] *See* Final Rule: Federal Home Loan Banks Boards of Directors: Eligibility and Elections, 74 FR 51452, 51462 (Oct. 7, 2009).

[27] FHFA also proposes to amend paragraph (a) of § 1261.9 to correct typographical errors currently in that paragraph. The changes would not alter the current wording or substance of the paragraph.

Minority and Women Inclusion that would be responsible for carrying out the provision of the statute relating to diversity in the management, employment, and business activities of the regulated entity, subject to the Director's authority to establish appropriate standards and requirements. That provision further requires each regulated entity to develop and implement standards and procedures "to ensure, to the maximum amount possible, the inclusion and utilization of minorities and women" in all business and activities of the regulated entity at all levels. 12 U.S.C. 4520(a), (b). In 2010, FHFA adopted regulations requiring each regulated entity and the Office of Finance to develop and implement policies and procedures to ensure, to the maximum amount possible, in balance with financially safe and sound business practices, the inclusion and utilization of minorities and women in all business and activities of those entities. Among other things, those policies and procedures must "encourage the consideration of diversity in nominating or soliciting nominees for positions on boards of directors." The policies and procedures also must address recruiting and outreach directed at encouraging minorities, women, and persons with disabilities to seek employment with those entities. 12 CFR 1207.21(b)(5).

FHFA has separate regulations governing the election of Bank directors which, among other things, limit the ability of a director, officer, attorney, or employee of a Bank to support the nomination or election of any individual for a member directorship. Those provisions allow Bank personnel to support the nomination or election of a particular person for a member directorship so long as they do so in their personal capacity and do not purport to represent the views of the Bank or its board of directors. Aside from that personal capacity exception, the regulations prohibit any such person from directly or indirectly supporting or opposing the nomination or election of a particular person for a member directorship, or from taking any other actions to influence the voting for any particular individual. 12 CFR 1261.9(b), (c). These provisions reflect statutory provisions that vest the authority to nominate and elect member directors solely in the members of a Bank.

FHFA has received inquiries from the Banks about the interrelationship of these two regulatory provisions. Specifically, Banks have inquired whether the provisions of § 1261.9(b) and (c) that restrict Bank directors or personnel from becoming involved in the nominations or election process also prohibit them from conducting outreach or engaging in recruiting activities to fulfill the regulatory requirement to consider diversity in the nomination or solicitation of nominations for board directorships. To address that concern, FHFA is proposing to revise § 1261.9(c) to expand the existing exemption within that provision so that it would extend to efforts by Bank directors or personnel to promote diversity on the boards of directors. As amended, § 1261.9(c) would continue to prohibit Bank directors and personnel from communicating that they support or oppose the nomination or election of any individual for a Bank directorship, or otherwise act to influence the voting with respect to a particular individual, but it would except from that prohibition—in addition to communications made in furtherance of the skills assessment and those made in a Bank officer or director's personal capacity—actions taken by Bank directors and personnel that are intended to promote diversity among the Banks' boards of directors. By making this amendment, FHFA intends that the Banks will be able to communicate with members or third parties to identify and recruit eligible individuals to seek nominations to serve as member directors of their Banks. Because the statute vests the authority to nominate and elect member directors solely in the members of each Bank, FHFA does not intend that the Banks could use this provision to actively campaign or promote the candidacy of a particular individual over other eligible nominees. Rather, the provision is intended to allow the Banks to actively seek out and encourage diverse candidates to run for election to the Banks' boards of directors.

In § 1261.13, FHFA proposes to replace an incorrect reference to "the eligibility requirements set forth . . . in this part" appearing in the first sentence with a correct reference to the eligibility requirements set forth in "this subpart."

Existing § 1261.15 implements section 7(c) of the Bank Act by providing that the number of member directorships allocated to each state shall not be less than the number of directorships allocated to that state on December 31, 1960, except with respect to member directorships of a Bank resulting from the merger of any two or more Banks. This provision is followed by a table setting forth, for those states whose members held more than one directorship on December 31, 1960, the number of directorships held by those states' members on that date. FHFA proposes to remove from that table references to Minnesota, Missouri, and Iowa. Under the statute, these states are no longer entitled to be allocated at least the number of seats their members held in 1960 because they are each located within the district of the Federal Home Loan Bank of Des Moines, a Bank that, in its current incarnation, was created from the merger of the former Des Moines and Seattle Banks.

*Part 1264—Federal Home Loan Bank Housing Associates.* FHFA proposes to amend § 1264.2 to correct the citation to the Advances regulation, which is now found at 12 CFR part 1266.

*Part 1266—Advances.* The proposed rule would make several revisions to FHFA's advances regulations, as described below. FHFA proposes to amend the definition of "tangible capital" in § 1266.1 to remove references to the Office of Thrift Supervision (OTS) now in the definition given that the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) abolished the OTS and transferred its duties to other federal banking agencies.[28]

FHFA also proposes to incorporate new language into the definition of "tangible capital" that would codify the substance of Regulatory Interpretation, 2012–RI–01 (Feb. 8, 2012), which deals with insurance company financial statements. The existing definition requires that a member's capital first be calculated in accordance with Generally Accepted Accounting Principles (GAAP). That requirement created some uncertainty about how a Bank could apply the definition of "tangible capital" to insurance companies that do not prepare GAAP financial statements, as some insurance companies prepare financial statements based on Statutory Accounting Principles (SAP), which differ from GAAP in certain respects. The Regulatory Interpretation addressed this issue by allowing Banks to use financial statements prepared by insurance company members using SAP when calculating their tangible capital if the insurance company members otherwise do not prepare financial statements based on GAAP. As FHFA noted in adopting the Regulatory Interpretation, the Finance Board originally adopted the definition of "tangible capital" so that the Banks could base the calculation of tangible capital on a member's regulatory filings and thereby avoid undue burdens on members or the Banks. Insurance company members, however, file financial reports with their state regulators based on SAP, rather than GAAP standards. Given that many insurance company members may not otherwise file or prepare GAAP statements, FHFA reasoned in its Regulatory Interpretation that it would create undue burdens to require these members to prepare separate GAAP based financial statements solely for the purpose of allowing the Bank to make the tangible capital calculation, as the language of the current definition of "tangible capital" appeared to require. The proposed amendment would clarify this definition by adding new language that explicitly authorizes the use of SAP financial statements to the same degree currently permitted by the Regulatory Interpretation.

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[28] *See* 12 U.S.C. 5412, 5413 (codifying §§ 312, 313, Pub. L. 111–203, 124 Stat. 1521–23 (July 21, 2010)).

FHFA is also proposing to delete § 1266.11, which applies only to Banks that have not yet converted to the capital structure implemented by the GLB Act. Given that all Banks have now converted to the GLB Act capital system, § 1266.11 has no future applicability. FHFA also proposes to remove references to OTS now in § 1266.13, a provision which implements section 10(h) of the Bank Act and allows a Bank to provide special liquidity advances to savings association members at the request of the member's federal regulator.[29] As already noted, the Dodd-Frank Act abolished the OTS, the former regulator for savings associations, and transferred its duties to other federal banking agencies. The proposed amendment would replace the current reference to OTS in the rule with references to the appropriate federal regulator for member savings associations, specifically, the Office of the Comptroller of the Currency (OCC) with respect to federal savings associations and the Federal Deposit Insurance Corporation (FDIC) with respect to state savings associations.[30]

Finally, FHFA proposes to remove subpart C to part 1266, which includes only one provision, § 1266.25, that addresses advances to out-of-district members.[31] Section 1266.25(a) authorizes a Bank to become a creditor of a member or housing associate of another Bank through the purchase from that other Bank of an advance, or a participation interest in an advance, that the other Bank had made to its member. This part of the regulation essentially repeats the language of the statute.[32] Section 1266.25(a) further provides that a Bank may become a creditor to a member or housing associate of another Bank through an arrangement with the other Bank that provides for the establishment of such a creditor/debtor relationship at the time an advance is made. Section 1266.25(b) provides that the establishment of any out-of-district creditor/debtor relationship under this regulation is subject to all requirements that would apply to any advance that a Bank could make to one of its own members. The regulatory history of the predecessor provision to § 1266.25, which the Finance Board adopted in 2000, provides little guidance as to the intended meaning of the "other arrangement" portion of the regulation.[33]

FHFA believes that § 1266.25 does not add meaningfully to the statutory authority to which it relates—for example, it does not solve the problem of how purchased advances or participations are to be capitalized—and therefore FHFA proposes to rescind it.

Removal of this provision would not prevent one Bank from selling an advance or participation to another Bank, based solely on the statutory authority, but FHFA would expect that before doing so a Bank would first obtain the concurrence of FHFA about how a non-member could capitalize those advances through some means other than by buying Bank stock.

*Part 1267—Federal Home Loan Bank Investments.* FHFA proposes to remove from § 1267.1 the definitions of "consolidated obligation" and "GAAP" because both of those terms are defined in part 1201, and thus are now duplicative.

*Part 1269—Standby Letters of Credit, and Part 1270—Liabilities.* FHFA proposes to correct citations to former Finance Board rules that FHFA readopted and transferred.

*Part 1273—Office of Finance.* Part 1273 of the FHFA regulations addresses the structure and duties of the Office of Finance. FHFA proposes to remove from § 1273.1 the definitions of "Bank System," "consolidated obligations," "Financing Corporation or FICO," "generally accepted accounting principles or GAAP," "NRSRO," "Office of Finance or OF," and "Resolution Funding Corporation or RefCorp" because all of those terms have been defined in part 1201, and thus are now duplicative. The proposal also would correct citations to previous Finance Board regulations that appear within §§ 1273.3, 1273.6, and 1273.8, all of which FHFA has replaced after it had initially adopted part 1273.

FHFA also proposes to remove from § 1273.7, which pertains to the structure of the Office of Finance board of directors (OF board), a number of provisions that applied only to the initial selection of the independent directors for the reconstituted OF board and the selection of the initial Chairman and Vice-Chairman. This process occurred in 2010, and these provisions no longer serve any purpose. Because the removal of these provisions also requires that FHFA re-designate the remaining paragraphs in § 1273.7, FHFA has opted to restate the revised § 1273.7 in its entirety, rather than make a series of piecemeal amendments to the existing regulatory text. The revised provision also conforms any internal citations accordingly. The proposed amendments would also correct the references in § 1273.7(a) to "seventeen" Office of Finance directors and to "twelve" Bank presidents to reflect that there are now only eleven Banks and sixteen Office of Finance directors.

FHFA also proposes to delete § 1273.8(d)(3), which requires the OF board to adopt an annual capital and operating budget consistent with 12 CFR 917.8, a provision that was, until recently, applicable to the Banks' boards of directors. However, when FHFA recently readopted the corporate governance provisions applicable to the Banks, it determined not to carry over § 917.8 because it believed adoption of a budget was a basic duty already encompassed in a director's duty to act in good faith and with care in overseeing the affairs of a Bank.[34] For these same reasons, FHFA believes that the budget responsibilities addressed in § 1273.8(d)(3) are already incorporated into, and are part of, an OF director's basic oversight duties and is therefore proposing to delete this provision.

FHFA is proposing to amend § 1273.9(b)(5), pertaining to the persons to whom the Office of Finance internal auditor shall report, to conform the provision to the comparable provision of the corporate governance regulations for the Banks. The current OF regulation includes a sentence that requires the internal auditor to report directly to the audit committee, but to report administratively to the executive management of the OF. The recently adopted corporate governance regulations provide that the internal auditors of the Banks must report directly to the audit committee on substantive matters and are ultimately accountable to the audit committee and the board of directors; they do not require the internal auditor to report to Bank management on administrative matters. FHFA believes that the corporate governance provisions reflect the better practice and is proposing to revise the OF regulations to conform to the language of the corporate governance provisions on internal auditor reporting. This revised language would not prevent the audit committee for a Bank or the OF from authorizing the internal auditor to report to executive management on purely administrative matters, if the audit committee believed it appropriate to establish that reporting relationship.

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[29] 12 U.S.C. 1430(h).

[30] *See* 12 U.S.C. 5412, 5415.

[31] *See* 12 CFR part 1266, subpart C.

[32] *See* 12 U.S.C. 1430(d).

[33] *See* Final Rule: Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances, 65 FR 43969 (July 17, 2000). *See also* Proposed Rule: Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances, 65 FR 25676 (May 3, 2000).

[34] *See* Proposed Rule: Responsibilities of Boards of Directors, Corporate Practices and Corporate Governance Matters, 79 FR 4414, 4421 (Jan. 28, 2014).

FHFA also proposes to delete § 1273.10 in its entirety. That provision provided for a transition process from the three person OF board structure that was in place prior to the adoption of part 1273 in 2010, to the current OF board structure established by part 1273. This transition process was completed in 2010, and § 1273.10 has no future applicability.

*Part 1274—Financial Statements of the Banks, Part 1278—Voluntary Mergers of Federal Home Loan Banks, and Part 1281—Federal Home Loan Bank Housing Goals.* FHFA proposes to remove from the definitions sections of these parts the definition of "Bank System", a term that is already defined by part 1201. For the same reason, FHFA proposes to remove from the definitions sections of parts 1274 and 1278, the definitions for "Financing Corporation or FICO," and "GAAP."

*Part 1290—Community Support Requirements, and Part 1291—Federal Home Loan Banks' Affordable Housing Program.* The proposed amendments would conform references to the "Federal Home Loan Bank Act" to read "Bank Act", which is the term defined in part 1201.

### *B. Considerations of Differences Between the Banks and the Enterprises*

When promulgating regulations relating to the Banks, section 1313(f) of the Safety and Soundness Act requires the Director to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability.[35] The changes proposed in this rulemaking make corrections to existing FHFA regulations or are clarifying and conforming in nature. Nonetheless, FHFA, in preparing this proposed rule, considered the differences between the Banks and the Enterprises as they relate to the above factors. FHFA requests comments from the public about whether these differences should result in any revisions to the proposed rule.

## IV. Paperwork Reduction Act

The proposed rulemaking does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

## V. Regulatory Flexibility Act

The proposed rule applies only to the Banks and the Enterprises, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, FHFA certifies that this proposed rule, if adopted as a final rule, would not have significant economic impact on a substantial number of small entities.

## List of Subjects

### *12 CFR Part 1200*

Organization and functions (Government agencies), Reporting and recordkeeping requirements, Seals and insignia.

### *12 CFR Part 1201*

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Office of finance, Regulated entities.

### *12 CFR Part 1229*

Capital, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

### *12 CFR Part 1238*

Administrative practice and procedure, Capital, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements, Stress test.

### *12 CFR Part 1239*

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

### *12 CFR Part 1261*

Banks, Banking, Conflicts of interest, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

### *12 CFR Parts 1264, 1266, and 1267*

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

### *12 CFR Part 1269*

Community development, Credit, Federal home loan banks, Housing, Letters of credit.

### *12 CFR Part 1270*

Accounting, Federal home loan banks, Government securities.

### *12 CFR Part 1273*

Federal home loan banks, Securities.

### *12 CFR Part 1274*

Accounting, Federal home loan banks, Financial disclosure.

### *12 CFR Part 1278*

Banks, Banking, Federal home loan banks, Mergers.

### *12 CFR Parts 1281 and 1290*

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

### *12 CFR Part 1291*

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, for reasons stated in the Supplementary Information and under authority in 12 U.S.C. 4511, 4513, and 4526, FHFA proposes to amend chapter XII of title 12 of the Code of Federal Regulations as follows:

## CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

## Subchapter A—Organization and Operations

## PART 1200—ORGANIZATION AND FUNCTIONS

■ 1. Amend the authority citation for part 1200 by revising it to read as follows:

**Authority:** 5 U.S.C. 552, 12 U.S.C. 4512, 12 U.S.C. 4526, 44 U.S.C. 3506.

■ 2. Amend part 1200 by adding § 1200.4 to read as follows:

### § 1200.4 OMB control numbers assigned under the Paperwork Reduction Act.

(a) Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3531) and the implementing regulations of the Office of Management and Budget (OMB) (5 CFR part 1320), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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[35] *See* 12 U.S.C. 4513.

(b) OMB has approved the collections of information contained in FHFA's regulations and has assigned each collection a control number. The following table displays the sections of FHFA's regulations (both those located in this chapter and those promulgated by the former Federal Housing Finance Board that appear in chapter IX of this title) containing collections of information, along with the applicable OMB control numbers and the expirations dates for those control numbers:

| 12 CFR part or section where identified and described | OMB Control No. | Expiration date |
|---|---|---|
| 906.5 | 2590–0004 | 07/31/2017 |
| 955.4 | 2590–0008 | 02/29/2016 |
| 1207.23 | 2590–0014 | 07/31/2018 |
| 1222.22 | 2590–0013 | 07/31/2018 |
| 1222.23 | 2590–0013 | 07/31/2018 |
| 1222.24 | 2590–0013 | 07/31/2018 |
| 1222.25 | 2590–0013 | 07/31/2018 |
| 1222.26 | 2590–0013 | 07/31/2018 |
| 1261.7 | 2590–0006 | 12/31/2017 |
| 1261.12 | 2590–0006 | 12/31/2017 |
| 1261.14 | 2590–0006 | 12/31/2017 |
| 1263.2 | 2590–0003 | 12/31/2016 |
| 1263.4 | 2590–0003 | 12/31/2016 |
| 1263.5 | 2590–0003 | 12/31/2016 |
| 1263.6 | 2590–0003 | 12/31/2016 |
| 1263.7 | 2590–0003 | 12/31/2016 |
| 1263.8 | 2590–0003 | 12/31/2016 |
| 1263.9 | 2590–0003 | 12/31/2016 |
| 1263.11 | 2590–0003 | 12/31/2016 |
| 1263.12 | 2590–0003 | 12/31/2016 |
| 1263.13 | 2590–0003 | 12/31/2016 |
| 1263.14 | 2590–0003 | 12/31/2016 |
| 1263.15 | 2590–0003 | 12/31/2016 |
| 1263.16 | 2590–0003 | 12/31/2016 |
| 1263.17 | 2590–0003 | 12/31/2016 |
| 1263.18 | 2590–0003 | 12/31/2016 |
| 1263.24 | 2590–0003 | 12/31/2016 |
| 1263.26 | 2590–0003 | 12/31/2016 |
| 1263.31 | 2590–0003 | 12/31/2016 |
| 1264.4 | 2590–0001 | 12/31/2018 |
| 1264.5 | 2590–0001 | 12/31/2018 |
| 1264.6 | 2590–0001 | 12/31/2018 |
| 1266.17 | 2590–0001 | 12/31/2018 |
| 1277.28 | 2590–0002 | 12/31/2016 |
| 1290.2 | 2590–0005 | 02/29/2016 |
| 1290.3 | 2590–0005 | 02/29/2016 |
| 1290.4 | 2590–0005 | 02/29/2016 |
| 1290.5 | 2590–0005 | 02/29/2016 |
| 1291.5 | 2590–0007 | 05/31/2016 |
| 1291.6 | 2590–0007 | 05/31/2016 |
| 1291.7 | 2590–0007 | 05/31/2016 |
| 1291.8 | 2590–0007 | 05/31/2016 |
| 1291.9 | 2590–0007 | 05/31/2016 |

## PART 1201—GENERAL DEFINITIONS APPLYING TO ALL FEDERAL HOUSING FINANCE AGENCY REGULATIONS

■ 3. The authority citation for part 1201 continues to read:

**Authority:** 12 U.S.C. 4511(b), 4513(a), 4513(b).

■ 4. Amend § 1201.1 by revising the definition of "Bank System" and adding, in alphabetical order, a definition for "President" to read as follows:

### § 1201.1 Definitions.

* * * * *

*Bank System* means the Federal Home Loan Bank System, consisting of all of the Banks and the Office of Finance.

* * * * *

*President,* when referring to an officer of a Bank only, means a Bank's principal executive officer.

* * * * *

## SUBCHAPTER B—ENTITY REGULATIONS

## PART 1229—CAPITAL CLASSIFICATIONS AND PROMPT CORRECTIVE ACTION

■ 5. The authority citation for part 1229 continues to read:

**Authority:** 12 U.S.C. 1426, 4513, 4526, 4613, 4614, 4615, 4616, 4617, 4618, 4622, 4623.

■ 6. Amend § 1229.1 by revising the definitions of "new business activity" and "total capital" to read as follows:

### § 1229.1 Definitions.

* * * * *

*New business activity* when used in this subpart has the same meaning set forth in § 1272.1 of this chapter.

* * * * *

*Total capital* means the sum of the Bank's permanent capital, the amount paid-in for its Class A stock, the amount of any general allowances for losses, and the amount of any other instruments identified in a Bank's capital plan that the Director has determined to be available to absorb losses incurred by such Bank.

■ 7. Amend § 1229.6 by revising paragraph (a)(3) to read as follows:

### § 1229.6 Mandatory actions applicable to undercapitalized Banks.

(a) * * *

(3) Not make any capital distribution unless:

(i) The distribution meets the requirements of § 1229.5(b) and paragraphs (a)(3)(ii) and (iii) of this section and the Director has provided permission for such distribution as set forth in § 1229.5(b);

(ii) The capital distribution will not result in the Bank being reclassified as significantly undercapitalized or critically undercapitalized; and

(iii) The capital distribution does not violate any restriction on the redemption or repurchase of capital stock or the declaration or payment of a dividend set forth in section 6 of the Bank Act (12 U.S.C. 1426) or in any other applicable regulation;

* * * * *

### § 1229.7 [Amended]

■ 8. Amend § 1229.7(a) by removing the reference to "§ 1229.7 or § 1229.8 of this subpart" and adding in its place a reference to "§ 1229.8 or § 1229.9".

## PART 1238—STRESS TESTING OF REGULATED ENTITIES

■ 9. The authority citation for part 1238 continues to read:

**Authority:** 12 U.S.C. 1426; 4513; 4526; 4612; 5365(i).

### § 1238.1 [Amended]

■ 10. Amend § 1238.1(a) by:

■ a. Removing the reference to "Federal Housing Finance Agency (FHFA)" and adding in its place "FHFA";

■ b. Removing the reference to "Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended" and adding in its place "Safety and Soundness Act"; and

■ c. Removing the reference to "Federal Home Loan Bank Act, as amended" and adding in its place "Bank Act".

### § 1238.2 [Amended]

■ 11. Amend § 1238.2 by removing the definitions for "Federal Home Loan Banks," "Federal Housing Finance Agency or FHFA," and "regulated entities".

## PART 1239—RESPONSIBILITIES OF BOARDS OF DIRECTORS, CORPORATE PRACTICES, AND CORPORATE GOVERNANCE

■ 12. The authority citation for part 1239 is revised to read:

**Authority:** 12 U.S.C. 1426, 1427, 1432(a), 1436(a), 1440, 4511(b), 4513(a), 4513(b), 4526, and 15 U.S.C. 78*oo*(b).

■ 13. Amend § 1239.32 by:

■ a. Revising paragraphs (d)(3) and (e)(4);

■ b. Removing the word "and" at the end of paragraph (e)(8);

■ c. Removing the period at the end of paragraph (e)(9) and adding "; and" in its place; and

■ d. Adding paragraph (e)(10).

The revisions and addition read as follows:

### § 1239.32 Audit committees.

* * * * *

(d) * * *

(3) Each Bank's audit committee charter shall:

(i) Provide that the audit committee has the responsibility to select, evaluate and, where appropriate, replace the internal auditor and that the internal auditor may be removed only with the approval of the audit committee;

(ii) Provide that the internal auditor shall report directly to the audit committee on substantive matters and that the internal auditor is ultimately accountable to the audit committee and board of directors;

(iii) Provide that the audit committee shall be directly responsible for the appointment, compensation, retention, and oversight of the work of the external auditor;

(iv) Provide that the external auditor shall report directly to the audit committee;

(v) Provide that both the internal auditor and the external auditor shall have unrestricted access to the audit committee without the need for any prior management knowledge or approval; and

(vi) Provide that the Bank shall make available appropriate funding, as determined by the audit committee, for payment of compensation to the external auditor, to any independent advisors or counsel engaged by the audit committee, and ordinary administrative expenses that are necessary or appropriate for the audit committee to carry out its duties.

(e) * * *

(4) Oversee the external audit function by:

(i) Approving the external auditor's annual engagement letter; and

(ii) Reviewing the performance of the external auditor.

* * * * *

(10) Establish procedures for the receipt, retention, and treatment of complaints received by the Bank regarding accounting, internal accounting controls, or auditing matters, and for the confidential, anonymous submission by employees of the Bank of concerns regarding questionable accounting or auditing matters.

* * * * *

## SUBCHAPTER D—FEDERAL HOME LOAN BANKS

## PART 1261—FEDERAL HOME LOAN BANK DIRECTORS

■ 14. The authority citation for part 1261 continues to read:

**Authority:** 12 U.S.C. 1426, 1427, 1432, 4511 and 4526.

### § 1261.2 [Amended]

■ 15. Amend § 1261.2:

■ a. By adding, in alphabetical order, a definition for "Advisory Council".

■ b. In the definition of "Member directorship", by removing the words ", and includes guaranteed directorships and stock directorships";

■ c. In the definition of "Public interest directorship", by removing the words "four years experience" and, in their place, adding the words "four years of experience"; and

■ d. By removing the definition of "Stock directorship".

The revision reads as follows:

### § 1261.2 Definitions.

* * * * *

*Advisory Council* means the Advisory Council each Bank is required to establish pursuant to section 10(j)(11) of the Bank Act (12 U.S.C. 1430(j)(11)), and part 1291 of this chapter.

* * * * *

### § 1261.3 [Amended]

■ 16. Amend § 1261.3:

■ a. In paragraph (b), by removing the words "commencing on or after January 1, 2009"; and

■ b. In paragraph (e), by removing the word "part", wherever it appears, and, in its place, adding the word "subpart".

■ 17. Amend § 1261.4 by revising paragraphs (a) and (b) to read as follows:

### § 1261.4 Designation of member directorships.

(a) *Capital stock reports.* (1) On or before April 10 of each year, each Bank shall deliver to FHFA a capital stock report that indicates, as of the record date, the number of members located in each voting State in the Bank's district, the number of shares of Bank stock that each member (identified by its FHFA ID number) was required to hold, and the number of shares of Bank stock that all members located in each voting State were required to hold. If a Bank has issued more than one class of stock, it shall report the total shares of stock of all classes required to be held by the members. The Bank shall certify to FHFA that, to the best of its knowledge, the information provided in the capital stock report is accurate and complete, and that it has notified each member of its minimum capital stock holding requirement as of the record date.

(2) The number of shares of Bank stock that any member was required to hold as of the record date shall be determined in accordance with the minimum investment established by the capital plan for that Bank.

(b) *Designation of member directorships.* Using the method of equal proportions, the Director annually will conduct a designation of member directorships for each Bank based on the number of shares of Bank stock required to be held by the members in each State as of the record date. If a Bank has issued more than one class of stock, the Director will designate the directorships for each State in that Bank district based on the combined number of shares required to be held by the members in that State. For purposes of conducting the designation, the number of shares of Bank stock required to be held by members as of that date shall be determined in accordance with the minimum investment established by the capital plan for that Bank. In all cases, the Director will designate the directorships by using the information provided by each Bank in its capital stock report required by paragraph (a)(1) of this section.

* * * * *

### § 1261.5 [Amended]

■ 18. Amend § 1261.5:

■ a. In paragraph (b), by removing the extra period following the words "under § 1261.4(c)."; and

■ b. By removing paragraph (e)(2).

■ 19. Amend § 1261.6 by revising paragraph (b) to read as follows:

### § 1261.6 Determination of member votes.

* * * * *

(b) *Number of votes.* For each member directorship and each independent directorship that is to be filled in an election, each member shall be entitled to cast one vote for each share of Bank stock that the member was required to hold as of the record date. Notwithstanding the preceding sentence, the number of votes that any member may cast for any one directorship shall not exceed the average number of shares of Bank stock required to be held as of the record date by all members located in the same State as of the record date. If a Bank has issued more than one class of stock, it shall calculate the average number of shares separately for each class of stock, using the total number of members in a State as the denominator, and shall apply those limits separately in determining the maximum number of votes that any member owning that class of stock may cast in the election. The number of shares of Bank stock that a member was required to hold as of the record date shall be determined in accordance with the minimum investment requirement established by the Bank's capital plan.

* * * * *

**§ 1261.7 [Amended]**

■ 20. Amend § 1261.7:

■ a. In paragraph (a), by redesignating the first paragraph (a)(1) as the introductory text to paragraph (a);

■ b. In paragraph (d)(1)(i), by removing the words "four years experience" and, in their place, adding the words "four years of experience"; and

■ c. In paragraph (e)(2), by removing the words "four years experience" and, in their place, adding the words "four years of experience".

■ 21. Amend § 1261.8 by revising paragraphs (a) and (c) to read as follows:

### § 1261.8 Election process.

(a) *Ballots.* Promptly after fulfilling the requirements of § 1261.7(f), each Bank shall prepare and deliver a ballot to each member that was a member as of the record date. The Bank shall include with each ballot a closing date for the Bank's receipt of voted ballots, which date shall be no earlier than 30 calendar days after the date such ballot is delivered to the member.

(1) A ballot shall include at least the following provisions:

(i) For states in which one or more member directorships are to be filled in the election, an alphabetical listing of the names of each nominee for such directorship, the name, location, and FHFA ID number of the member each nominee serves, the nominee's title or position with the member, and the number of member directorships to be filled by the members in that voting state in the election;

(ii) An alphabetical listing of the names of each nominee for a public interest independent directorship and a brief description of each nominee's experience representing consumer and community interests;

(iii) An alphabetical listing of the names of each nominee for the other independent directorships and a brief description of each nominee's qualifications, including his or her knowledge or experience in the areas of financial management, auditing and accounting, risk management practices, derivatives, project development, organizational management, and any other area of knowledge or experience set forth in § 1261.7(e);

(iv) A statement that write-in candidates are not permitted; and

(v) A confidentiality statement prohibiting the Bank from disclosing how any member voted.

(2) At the election of the Bank, a ballot also may include, in the body or as an attachment, a brief description of the skills and experience of each nominee for a member directorship.

* * * * *

(c) *Lack of member directorship nominees.* If, for any voting State, the number of nominees for the member directorships for that State is equal to or fewer than the number of such directorships to be filled in that year's election, the Bank shall deliver a notice to the members in the affected voting State (in lieu of including any member directorship nominees on the ballot for that State) that such nominees shall be deemed elected without further action, due to an insufficient number of nominees to warrant balloting. Thereafter, the Bank shall declare elected all such eligible nominees. The nominees declared elected shall be included as directors-elect in the report of election required under paragraph (g) of this section. Any member directorship that is not filled due to a lack of nominees shall be deemed vacant as of January 1 of the following year and shall be filled by the Bank's board of directors in accordance with § 1261.14(a).

* * * * *

■ 22. Amend § 1261.9 by revising paragraphs (a) and (c) to read as follows:

### § 1261.9 Actions affecting director elections.

(a) *Banks.* Each Bank, acting through its board of directors, may conduct an annual assessment of the skills and experience possessed by the members of its board of directors as a whole and may determine whether the capabilities of the board would be enhanced through the addition of individuals with particular skills and experience. If the board of directors determines that the Bank could benefit by the addition to the board of directors of individuals with particular qualifications, such as auditing and accounting, derivatives, financial management, organizational management, project development, risk management practices, or the law, it may identify those qualifications and so inform the members as part of its announcement of elections pursuant to § 1261.7(a).

* * * * *

(c) *Prohibition.* Except as provided in paragraphs (a) and (b) of this section, or § 1207.21(b)(5) of this chapter, no director, officer, attorney, employee, or agent of a Bank shall:

(1) Communicate in any manner that a director, officer, attorney, employee, or agent of a Bank, directly or indirectly, supports or opposes the nomination or election of a particular individual for a directorship; or

(2) Take any other action to influence the voting with respect to any particular individual.

**§ 1261.13 [Amended]**

■ 23. Amend § 1261.13 by removing the words "this part" in the first sentence, and, in their place, adding the words "this subpart".

■ 24. Amend § 1261.15 by revising it to read as follows:

### § 1261.15 Minimum number of member directorships.

Except with respect to member directorships of a Bank resulting from the merger of any two or more Banks, the number of member directorships allocated to each state shall not be less than the number of directorships allocated to that state on December 31, 1960. The following table sets forth the states within Bank districts not created from the merger of two or more Banks whose members held more than one directorship on December 31, 1960:

| State | Number of elective directorships on December 31, 1960 |
|---|---|
| California | 3 |
| Colorado | 2 |
| Illinois | 4 |
| Indiana | 5 |
| Kansas | 3 |
| Kentucky | 2 |
| Louisiana | 2 |
| Massachusetts | 3 |
| Michigan | 3 |
| New Jersey | 4 |
| New York | 4 |
| Ohio | 4 |
| Oklahoma | 2 |
| Pennsylvania | 6 |
| Tennessee | 2 |
| Texas | 3 |
| Wisconsin | 4 |

## PART 1264—FEDERAL HOME LOAN BANK HOUSING ASSOCIATES

■ 25. The authority citation for part 1264 continues to read:

**Authority:** 12 U.S.C. 1430b, 4511, 4513 and 4526.

**§ 1264.2 [Amended]**

■ 26. Amend § 1264.2 by removing the reference "part 950 of this title" and adding in its place the reference "part 1266 of this chapter".

## PART 1266—ADVANCES

■ 27. The authority citation for part 1266 continues to read:

**Authority:** 12 U.S.C. 1426, 1429, 1430, 1430b, 1431, 4511(b), 4513, 4526(a).

### Subpart A—Advances to Members

■ 28. Amend § 1266.1 by revising the definition of "Tangible capital" to read as follows:

### § 1266.1 Definitions.

* * * * *

*Tangible capital* means:

(1) Capital, calculated according to GAAP, less "intangible assets" except for purchased mortgage servicing rights to the extent such assets are included in a member's core or Tier 1 capital, as reported in a member's Report of Condition and Income for members whose primary federal regulator is the FDIC, the OCC, or the FRB.

(2) Capital calculated according to GAAP, less intangible assets, as defined by a Bank for members that are not regulated by the FDIC, the OCC, or the FRB; provided that a Bank shall include a member's purchased mortgage servicing rights to the extent such assets are included for the purpose of meeting regulatory capital requirements. In addition, for those members that are insurance companies and that do not file or otherwise prepare financial statements based on GAAP, Banks may base this calculation on the member's financial statements prepared using Statutory Accounting Principles as implemented by the insurance company member's appropriate state regulator.

* * * * *

### § 1266.11 [Removed and reserved]

■ 29. Remove and reserve § 1266.11.

■ 30. Amend § 1266.13 by revising paragraph (a) to read as follows:

### § 1266.13 Special advances to savings associations.

(a) *Eligible institutions.* (1) A Bank, upon receipt of a written request from the OCC, with respect to a federal savings association, or from the FDIC, with respect to a state chartered savings association, may make short-term advances to a savings association member pursuant to section 10(h) of the Bank Act (12 U.S.C. 1430(h)).

(2) Such request must certify that the savings association member:

(i) Is solvent but presents a supervisory concern to the OCC or FDIC, as appropriate, because of the member's financial condition; and

(ii) Has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

* * * * *

## Subpart C [Removed]

■ 31. Remove subpart C to part 1266, consisting of § 1266.25.

## PART 1267—FEDERAL HOME LOAN BANK INVESTMENTS

■ 32. The authority citation for part 1267 continues to read:

**Authority:** 12 U.S.C. 1429, 1430, 1430b, 1431, 1436, 4511, 4513, 4526.

### § 1267.1 [Amended]

■ 33. Amend § 1267.1 by removing the definitions for "consolidated obligation" and "GAAP".

## PART 1269—STANDBY LETTERS OF CREDIT

■ 34. The authority citation for part 1269 continues to read:

**Authority:** 12 U.S.C. 1429, 1430, 1430b, 1431, 4511, 4513 and 4526.

### § 1269.4 [Amended]

■ 35. Amend § 1269.4(a)(1) by removing the reference to "969.2 of this title" and adding in its place a reference to "1270.3 of this chapter".

## PART 1270—LIABILITIES

■ 36. The authority citation for part 1270 continues to read:

**Authority:** 12 U.S.C. 1431, 1432, 1435, 4511, 4512, 4513, and 4526.

### § 1270.9 [Amended]

■ 37. Amend § 1270.9(d)(1) by removing the reference to "§ 956.6 of this title" and adding in its place a reference to "§ 1267.4 of this chapter".

## PART 1273—OFFICE OF FINANCE

■ 38. The authority citation for part 1273 continues to read:

**Authority:** 12 U.S.C. 1431, 1440, 4511(b), 4513, 4514(a), 4526(a).

### § 1273.1 [Amended]

■ 39. Amend § 1273.1 by removing the definitions for "Bank System," "Consolidated obligations," "Financing Corporation or FICO," "Generally accepted accounting principles or GAAP," "NRSRO," "Office of Finance or OF," and "Resolution Funding Corporation or REFCORP".

■ 40. Amend § 1273.3 by revising paragraphs (a) and (d) to read as follows:

### § 1273.3 Functions of the OF.

(a) *Joint debt issuance.* Subject to part 1270, subparts B and C, of this chapter, and this part, the OF, as agent for the Banks, shall offer, issue, and service (including making timely payments on principal and interest due) consolidated obligations.

* * * * *

(d) *Financing Corporation and Resolution Funding Corporation.* The OF shall perform such duties and responsibilities for FICO as may be required under part 1271, subpart D, of this chapter, or for REFCORP as may be required under part 1271, subpart E, of this chapter or authorized by FHFA pursuant to section 21B (c)(6)(B) of the Bank Act (12 U.S.C 1441b(c)(6)(B)).

### § 1273.6 [Amended]

■ 41. Amend § 1273.6(a) by removing the reference to "§§ 966.8 and 966.9 of this title" and adding in its place a reference to "§§ 1270.9 and 1270.10 of this chapter".

■ 42. Amend § 1273.7 by revising it to read as follows

### § 1273.7 Structure of the OF board of directors.

(a) *Membership.* The OF board of directors shall consist of part-time members as follows:

(1) Each of the Bank presidents, *ex officio*, provided that if the presidency of any Bank becomes vacant, the person designated by the Bank's board of directors to temporarily fulfill the duties of president of that Bank shall serve on the OF board of directors until the presidency is filled permanently; and

(2) Five Independent Directors who—

(i) Each shall be a citizen of the United States;

(ii) As a group, shall have substantial experience in financial and accounting matters; and

(iii) Shall not have any material relationship with a Bank, or the OF (directly or as a partner, shareholder, or officer of an organization), as determined under criteria set forth in a policy adopted by the OF board of directors. At a minimum, such policy shall provide that an Independent Director may not:

(A) Be an officer, director, or employee of any Bank or member of a Bank, or have been an officer, director, or employee of a Bank or member of a Bank during the previous three years;

(B) Be an officer or employee of the OF, or have been an officer or employee of the OF during the previous three years; or

(C) Be affiliated with any consolidated obligations selling or dealer group under contract with OF, or hold shares or any other financial interest in any entity that is part of a consolidated obligations seller or dealer group in an amount greater than the lesser of $250,000 or 0.01% of the market capitalization of the seller or dealer group, or in an amount that exceeds $1,000,000 for all entities that are part of any consolidated obligations seller dealer group, combined. For purposes of this paragraph (a)(2)(iii)(C), a holding company of an entity that is part of a consolidated obligations seller or dealer group shall be deemed to be part of the consolidated obligations selling or dealer group if the assets of the holding company's subsidiaries that are part of a consolidated obligation seller or dealer group constitute 35% or more of the consolidated assets of the holding company.

(b) *Terms.* (1) Except as provided in paragraph (b)(2) of this section, each Independent Director shall serve for five-year terms (which shall be staggered so that no more than one Independent Director seat would be scheduled to become vacant in any one year), and shall be subject to removal or suspension in accordance with § 1273.4(a) of this part. An Independent Director may not serve more than two full, consecutive terms, provided that any partial term served by an Independent Director pursuant to paragraph (b)(2) of this section shall not count as a term for purposes of this restriction.

(2) The OF board of directors shall fill any vacancy among the Independent Directors occurring prior to the scheduled end of a term by majority vote, subject to FHFA's review of, and non-objection to, the new Independent Director. The OF board of directors shall provide FHFA with the same biographic and background information about the new Independent Director required under paragraph (c) of this section, and FHFA shall have the same rights of non-objection to the Independent Director (and to appoint a different Independent Director) as set forth in paragraph (c) of this section. A person shall be elected (or otherwise appointed by FHFA) under this paragraph to serve only for the remainder of the term associated with the vacant directorship.

(c) *Election of Independent Directors.* The Independent Directors shall be elected by majority vote of the OF board of directors, subject to FHFA's review of, and non-objection to, each Independent Director. The OF board of directors shall provide FHFA with relevant biographic and background information, including information demonstrating that the new Independent Director meets the requirements of paragraph (a)(2) of this section, at least 20 business days before the person assumes any duties as a member of the OF board of directors. If the OF board of directors, in FHFA's judgment, fails to elect a suitably qualified person, FHFA may appoint some other person who meets the requirements of paragraph (a)(2) of this section. FHFA will provide notice of its objection to a particular Independent Director prior to the date that such Director is to assume duties as a member of the OF board of directors. Such notice shall indicate whether, given FHFA's objection, FHFA intends to fill the seat through appointment or a new election should be held by the OF board of directors.

(d) *Election of Chair and Vice-Chair.* (1) The Chair shall be elected by majority vote of the OF board of directors from among the Independent Directors then serving on the OF board of directors, and the Vice Chair shall be elected by majority vote of the OF board of directors from among all directors.

(2) The OF board of directors shall promptly inform FHFA of the election of a Chair or Vice Chair. If FHFA objects to any Chair or Vice Chair elected by the OF board of directors, FHFA shall provide written notice of its objection within 20 business days of the date that FHFA first receives the notice of the election of the Chair and or Vice Chair, and the OF board of directors must then promptly elect a new Chair or Vice Chair, as appropriate.

(e) *By-laws and Committees.* (1) The OF board of directors shall adopt by-laws governing the manner in which the board conducts its affairs, which shall be consistent with the requirements of this part and other applicable laws and regulations as administered by FHFA. The by-laws of the board of directors shall be subject to review and approval by FHFA.

(2) In addition to the Audit Committee required under § 1273.9, the OF board of directors may establish other committees, including an Executive Committee. The duties and powers of such committee, including any powers delegated by the OF board of directors, shall be specified in the by-laws of the board of directors or the charter of the committee.

(f) *Compensation.* (1) The Bank presidents shall not receive any additional compensation or reimbursement as a result of their service as a director of the OF board.

(2) The OF shall pay reasonable compensation and expenses to the Independent Directors in accordance with the requirements for payment of compensation and expenses to Bank directors as set forth in part 1261 of this chapter.

(g) *Corporate Governance and Indemnification*—(1) *General.* The corporate governance practices and procedures of the OF, and practices and procedures related to indemnification (including advancement of expenses) shall comply with applicable Federal law rules and regulations.

(2) *Election and designation of body of law.* To the extent not inconsistent with paragraph (g)(1) of this section, the OF shall elect to follow the corporate governance and indemnification practices and procedures set forth in one of the following:

(i) The law of the jurisdiction in which the principal office of the OF is located;

(ii) the Delaware General Corporation Law (Del. Code Ann. Title 8); or

(iii) the Revised Model Business Corporation Act. The OF board of directors shall designate in its by-laws the body of law elected pursuant to this paragraph (g)(2).

(3) *Indemnification.* Subject to paragraphs (g)(1) and (2) of this section, to the extent applicable, the OF shall indemnify (and advance the expenses of) its directors, officers, and employees under such terms and conditions as are determined by the OF board of directors. The OF shall be authorized to maintain insurance for its directors, the CEO, and any other officer of employee of the OF. Nothing in this paragraph (g)(3) shall affect any rights to indemnification (including the advancement of expenses) that a director, the CEO, or any other officer or employee of the OF had with respect to any actions, omissions, transactions, or facts occurring prior to [EFFECTIVE DATE OF FINAL RULE].

(h) *Delegation.* In addition to any delegation to a committee allowed under paragraph (e) of this section, the OF board of directors may delegate any of its authority or duties to any employee of the OF in order to enable OF to carry out its functions.

(i) *Outside staff and consultants.* In carrying out its duties and responsibilities, the OF board of directors, or any committee thereof, shall have authority to retain staff and outside counsel, independent accountants, or other outside consultants at the expense of the OF.

**§ 1273.8 [Amended]**

■ 43. Amend § 1273.8 by:

■ a. Removing from paragraph (d)(2) the reference to "§ 917.5 of this title" and adding in its place a reference to "§ 1239.31 of this chapter".

■ b. Removing paragraph (d)(3); and

■ c. Redesignating paragraphs (d)(4), (5), and (6) as paragraphs (d)(3), (4), and (5), respectively.

■ 44. Amend § 1273.9 by revising paragraph (b)(5) to read as follows:

**§ 1273.9 Audit Committee.**

* * * * *

(b) * * *

(5) The Audit Committee shall oversee internal audit activities, including the selection, evaluation, compensation, and, where appropriate, replacement of the internal auditor. The internal auditor shall report directly to the Audit Committee on substantive matters, and is ultimately accountable to

the Audit Committee and the board of directors.

* * * * *

**§ 1273.10 [Removed]**

■ 45. Remove § 1273.10.

## PART 1274—FINANCIAL STATEMENT OF THE BANKS

■ 46. The authority citation for part 1274 continues to read:

**Authority:** 12 U.S.C. 1426, 1431, 4511(b), 4513, 4526(a).

**§ 1274.1 [Amended]**

■ 47. Amend § 1274.1 by removing the definitions for "Bank System" and "Financing Corporation or FICO".

## PART 1278—VOLUNTARY MERGERS OF FEDERAL HOME LOAN BANKS

■ 48. The authority citation for part 1278 continues to read:

**Authority:** 12 U.S.C. 1432(a), 1446, 4511.

**§ 1278.1 [Amended]**

■ 49. Amend § 1278.1 by removing the definition for "GAAP".

## SUBCHAPTER E—HOUSING GOALS AND MISSION

## PART 1281—FEDERAL HOME LOAN BANK HOUSING GOALS

■ 50. The authority citation for part 1281 continues to read:

**Authority:** 12 U.S.C. 1430c.

### Subpart A—General

**§ 1281.1 [Amended]**

■ 51. Amend § 1281.1 by removing the definition for "Bank System".

## PART 1290—COMMUNITY SUPPORT REQUIREMENTS

■ 52. The authority citation for part 1290 continues to read:

**Authority:** 12 U.S.C. 1430(g), 4511, 4513.

■ 53. Amend § 1290.1 by revising the definition of "Advisory Council" to read as follows:

**§ 1290.1 Definitions.**

* * * * *

*Advisory Council* means the Advisory Council each Bank is required to establish pursuant to section 10(j)(11) of the Bank Act (12 U.S.C. 1430(j)(11)) and part 1291 of this chapter.

* * * * *

## PART 1291—FEDERAL HOME LOAN BANKS' AFFORDABLE HOUSING PROGRAM

■ 54. The authority citation for part 1291 continues to read:

**Authority:** 12 U.S.C. 1430(j).

**§ 1291.4 [Amended]**

■ 55. Amend § 1291.4(f) by removing the reference to "the Act" and adding a reference to "the Bank Act" in its place.

Dated: May 17, 2016.

**Melvin L. Watt,**

*Director, Federal Housing Finance Agency.*

[FR Doc. 2016–12066 Filed 5–25–16; 8:45 am]

BILLING CODE 8070–01–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 27 and 29

**[Docket No. FAA–2016–6691]**

## Proposed Inlet Barrier Filter for Rotorcraft Policy Statement

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The FAA is announcing a public meeting to gather additional technical input on the subject of installing an engine inlet barrier filter (IBF) on rotorcraft. Input gathered will aid in developing FAA guidance for evaluating engine IBFs installed on rotorcraft. Prior to the public meeting, the FAA previously sought public comments regarding the guidance online.

**DATES:** The public meeting will be held on the following date. (Note that the meeting may be adjourned early if scheduled speakers complete their presentations early.)

July 7, 2016, from 9:00 a.m. until 12:00 p.m. (The deadline to submit a request to make an oral statement is June 29, 2016.)

Written comments regarding the policy must be received by July 7, 2016.

**ADDRESSES:** The public meeting will be held at the Hilton Garden Inn, Fort Worth Alliance Airport, 2600 Westport Parkway, Fort Worth, TX 76177. Due to limited space, attendees are requested to please reply (RSVP) to Michael Hughlett, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5889; email *michael.hughlett@faa.gov.* If computer access is not possible, please RSVP via mail, fax or hand delivery via the methods listed directly below:

- *Mail or Hand Delivery:* RSVP to Regulations and Policy Group, ASW–111, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.
- *Fax:* RSVP to ASW–111, ATTN: IBF Policy Meeting (RSVP) at (817) 222–5961.

**FOR FURTHER INFORMATION CONTACT:** Requests to present a statement at the public meeting and questions regarding the logistics of the meeting should be directed to Michael Hughlett, Regulations and Policy Group, ASW–111, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5889, facsimile (817) 222–5961, or email at *Michael.Hughlett@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On January 25, 2016, we invited public comments when we posted on the FAA's Web site a draft policy statement regarding the certification of IBF installations on rotorcraft. The draft policy statement identified items that should be considered in IBF installations, including two unique aspects associated with an IBF: (1) Determining the power available with IBF blockage at the impending bypass level; and (2) evaluating the bypass system. The draft policy also sought to clarify the applicability of existing airworthiness standards and guidance to engine IBF installations. The draft policy statement is intended to ensure safe and standardized installations of engine IBFs on rotorcraft.

Because of significant public interest, we extended the initial comment period regarding the policy by 30 days. At the end of the comment period, we had received comments from over 35 interested parties.

### Purpose of the Public Meetings

The purpose of the public meeting is for the FAA to hear the public's views and obtain information relevant to the policy under consideration. The FAA will consider comments made at the public meeting (as well as comments submitted to the docket) before making a final decision on issuance of the policy.

Persons wishing to attend this one-time meeting are requested to register in advance. Your registration must detail whether you wish to make a statement during the public meeting. If you do wish to make a statement, your registration must indicate which topic you wish to speak about and what organization you represent. Due to limited space, attendees are requested to please reply (RSVP) to Michael Hughlett via the methods listed above in the **ADDRESSES** section.

## Participation at the Public Meetings

Commenters who wish to present oral statements at the July 7, 2016, public meeting should submit requests to the FAA no later than June 29, 2016. Requests should be submitted as described in the **FOR FURTHER INFORMATION CONTACT** section of this document and should include a written summary of oral remarks to be presented and an estimate of time needed for the presentation. Preferably, please submit requests via email to: *Michael.Hughlett@faa.gov*. Requests received after the dates specified above will be scheduled if there is time available during the meeting; however, the speakers' names may not appear on the written agenda. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested to ensure various views can be heard. See "Public Meeting Procedures" below.

The FAA may have available a projector and a computer capable of accommodating Word and PowerPoint presentations. Persons requiring any other kind of audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

The FAA will make every effort to accommodate all persons wishing to attend. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

## Public Meeting Procedures

A panel of representatives from the FAA will be present to facilitate the meeting in accordance with the following procedures:

(1) The meeting is designed to facilitate the public comment process. The meeting will be informal and non-adversarial. No individual will be subject to cross-examination by any other participant. Government representatives on the panel may ask questions to clarify statements and to ensure an accurate record. Any statement made during the meetings by a panel member should not be construed as an official position of the government.

(2) There will be no admission fees or other charges to attend or to participate in the public meeting. The meeting will be open to all persons, subject to availability of space in the meeting room. The FAA asks that participants sign in between 8:30 and 9:00 a.m. on the day of the meeting. The FAA will try to accommodate all speakers; however if available time does not allow this, speakers who have contacted the FAA in advance will be allowed to speak first, others will be scheduled on a first-come-first-served basis. The FAA reserves the right to exclude some speakers, if necessary, to obtain balanced viewpoints. The meeting may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meeting.

(3) The FAA will prepare agendas of speakers and presenters and make the agendas available at the meeting.

(4) Speaker time slots may be limited to 3-minute statements. If possible, the FAA will notify speakers if additional time is available.

(5) The FAA will review and consider all material presented by participants at the public meeting. Position papers or materials presenting views or information related to the draft policy may be accepted at the discretion of the presiding officer and will be subsequently placed in the public docket. The FAA requests that presenters at the meeting provide at least 10 copies of all materials for distribution to the panel members. Presenters may provide other copies to the audience at their discretion.

(6) We ask each person presenting comments to provide the technical basis to support the comments. The most helpful comments reference a specific portion of the policy statement and explain the reason for any recommended change.

Issued in Fort Worth, Texas, on May 18, 2016.

**Jorge R. Castillo,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2016–12526 Filed 5–25–16; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2016–6893; Directorate Identifier 2015–NM–181–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A318–112 airplanes, A319–111, –112, –115, –132, and –133 airplanes, A320–214, –232, and –233 airplanes, and A321–211, –212, –213, –231, and –232 airplanes. This proposed AD was prompted by a quality control review on the final assembly line, which determined that the wrong aluminum alloy was used to manufacture several structural parts. This proposed AD would require a one-time eddy current conductivity measurements of certain cabin and cargo compartment structural parts to determine if an incorrect aluminum alloy was used, and replacement if necessary. We are proposing this AD to detect and replace structural parts made of incorrect aluminum alloy. This condition could result in reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by July 11, 2016.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com*.

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6893; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–6893; Directorate Identifier 2015–NM–181–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0218, dated November 3, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Model A318–112, A319–111, –112, –115, –132, and –133, A320–214, –232, and –233, and A321–211, –212, –213, –231, and –232 airplanes. The MCAI states:

> Following an Airbus quality control review on the final assembly line, it was discovered that wrong aluminum alloy were delivered by a supplier for several structural parts. The results of the investigations highlighted that 0.04% of the stock could be impacted by this wrong material.
>
> Structural investigations demonstrated the capability to sustain the static limits loads, and sufficient fatigue life up to a certain inspection threshold.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued Service Bulletin (SB) A320–53–1298 and SB A320–53–1299 to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires a one-time Special Detailed Inspection (SDI) [eddy current conductivity measurements] of certain cabin and cargo compartment parts for material identification and, depending on findings, replacement with serviceable parts.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6893.

### Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletins A320–53–1298 and A320–53–1299, both dated February 16, 2015; both including Appendices 01, 02, and 03, dated February 16, 2015. The service information describes procedures for a one-time eddy current conductivity measurement of certain cabin and cargo compartment structural parts to determine if an incorrect aluminum alloy was used, and replacement of any affected part with a serviceable part. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

### FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

### Costs of Compliance

We estimate that this proposed AD affects 167 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $14,195, or $85 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all available costs in our cost estimate.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA–2016–6893; Directorate Identifier 2015–NM–181–AD.

#### (a) Comments Due Date

We must receive comments by July 11, 2016.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category; manufacturer serial numbers 3586, 3588, 3589, 3590, 3595, 3604, 3608, 3614, 3615, 3620, 3632, 3634, 3638, 3647, 3651, 3657, 3660, 3661, 3663, 3671, 3675, 3680, 3683 through 3687 inclusive, 3689, 3691, 3694, 3700, 3702, 3704, 3705, 3710, 3720, 3727, 3728, 3733, 3735, 3742, 3744, 3746, 3754, 3757, 3759, 3763, 3768, 3770, 3772, 3774, 3775, 3779, 3788, 3790, 3794, 3797, 3799, 3801, 3803, 3808, 3810, 3818, 3822, 3824, 3826 through 4329 inclusive, 4331 through 6051 inclusive, 6053 through 6061 inclusive, 6063 through 6072 inclusive, 6074 through 6100 inclusive, 6102 through 6115 inclusive, 6117 through 6126 inclusive, 6128 through 6136 inclusive, 6138 through 6143 inclusive, 6145 through 6150 inclusive, 6152 through 6159 inclusive, 6161 and 6162.

(1) Airbus Model A318–112 airplanes.

(2) Airbus Model A319–111, –112, –115, –132, and –133 airplanes.

(3) Airbus Model A320–214, –232, and –233 airplanes.

(4) Airbus Model A321–211, –212, –213, –231, and –232 airplanes.

#### (d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

#### (e) Reason

This AD was prompted by a quality control review of the final assembly line which determined that the wrong aluminum alloy was used to manufacture several structural parts. We are issuing this AD to detect and correct structural parts made of incorrect aluminum alloy. This condition could result in reduced structural integrity of the airplane.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) One-Time Measurement

Within 6 years after the effective date of this AD, but not exceeding 12 years since the date of issuance of the original certificate of airworthiness or the date of issuance of the original export certificate of airworthiness: Do a one-time eddy current conductivity measurements (with 60kHz and 480kHz) of the cabin and cargo compartment structural parts identified in the "Affected P/N" column of table 1 to paragraphs (g) and (h) of this AD to determine if an incorrect aluminum alloy was used, in accordance with the Accomplishment Instructions of Airbus Service Bulletins A320–53–1298, dated February 16, 2015, including Appendices 01, 02, and 03, dated February 16, 2015 (for cabin parts); and A320–53–1299, dated February 16, 2015, including Appendices 01, 02, and 03, dated February 16, 2015 (for cargo parts).

TABLE 1 TO PARAGRAPHS (g) AND (h) OF THIS AD—PARTS TO BE INSPECTED/INSTALLED

| Affected P/N | Acceptable replacement P/N | Area |
|---|---|---|
| D5347120720000 | D5347120720051 | Cabin. |
| D5347120720100 | D5347120720151 | Cabin. |
| D5347120920000 | D5347120920051 | Cabin. |
| D5347120920100 | D5347120920151 | Cabin. |
| D5347118820400 | D5347118820451 | Cabin. |
| D5347717620000 | D5347717620051 | Cargo. |
| D5357020620000 | D5357020620051 | Cargo. |
| D5358526421200 | D5358526421251 | Cargo. |
| D5358526421400 | D5358526421400 | Cargo. |
| D5358526421000 | D5358526421051 | Cargo. |
| D5358513120001 | D5358513120051 | Cargo. |

#### (h) Replacement

If during the inspection required by paragraph (g) of this AD, any affected part having a part number (P/N) specified in table 1 to paragraphs (g) and (h) of this AD is found to have a measured value greater than that specified in Figure A–GFAAA, Sheet 02, "Inspection Flowchart," of the applicable service information identified in paragraph (g) of this AD: Before further flight, replace with an acceptable replacement part having a P/N specified in table 1 to paragraphs (g) and (h) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletins A320–53–1298, dated February 16, 2015, including Appendices 01, 02, and 03, dated February 16, 2015 (for cabin parts); and A320–53–1299, dated February 16, 2015, including Appendices 01, 02, and 03, dated February 16, 2015 (for cargo parts).

#### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

#### (j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0218, dated November 3, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6893.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 17, 2016.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–12352 Filed 5–25–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 40

**[Docket No. RM16–7–000]**

### Disturbance Control Standard—Contingency Reserve for Recovery From a Balancing Contingency Event Reliability Standard

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission proposes to approve Reliability Standard BAL–002–2 (Disturbance Control Standard—Contingency Reserve for Recovery from a Balancing Contingency Event) submitted by the North American Electric Reliability Corporation (NERC). Proposed Reliability Standard BAL–002–2 is designed to ensure that applicable entities balance resources and demand and return their Area Control Error to defined values following a Reportable Balancing Contingency Event. In addition, the Commission proposes to direct NERC to modify Reliability Standard BAL–002–2 to address concerns related to the possible extension or delay of the periods for Area Control Error recovery and contingency reserve restoration. The Commission also proposes to direct NERC to address a reliability gap regarding megawatt losses above the most severe single contingency.

**DATES:** Comments are due July 25, 2016.

**ADDRESSES:** Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Enakpodia Agbedia (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6750, *Enakpodia.Agbedia@ferc.gov.*

Mark Bennett (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8524, *Mark.Bennett@ferc.gov.*

**SUPPLEMENTARY INFORMATION:** 1. Under section 215 of the Federal Power Act (FPA),[1] the Commission proposes to approve proposed Reliability Standard BAL–002–2 (Disturbance Control Standard—Contingency Reserve for Recovery from a Balancing Contingency Event). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted proposed Reliability Standard BAL–002–2 for Commission approval. Proposed Reliability Standard BAL–002–2 applies to balancing authorities and reserve sharing groups. Proposed Reliability Standard BAL–002–2 is designed to ensure that these entities are able to recover from system contingencies by deploying adequate reserves to return their Area Control Error (ACE) to defined values and by replacing the capacity and energy lost due to generation or transmission equipment outages.[2] In addition, the Commission proposes to approve eight new and revised definitions proposed by NERC for inclusion in the NERC Glossary of Terms Used in NERC Reliability Standards (NERC Glossary) and to retire currently-effective Reliability Standard BAL–002–1 immediately prior to the effective date of proposed Reliability Standard BAL–002–2. The Commission also proposes to approve, with certain modifications, the associated violation risk factors and violation severity levels, and implementation plan.

2. Pursuant to section 215(d)(5) of the FPA,[3] the Commission proposes to direct NERC to modify Reliability Standard BAL–002–2 to address concerns related to the possible extension or delay of the periods for ACE recovery and contingency reserve restoration. The Commission also proposes to direct NERC to address a reliability gap regarding megawatt losses above the most severe single contingency.

## I. Background

### *A. Mandatory Reliability Standards and Order No. 693 Directives*

3. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards that are subject to Commission review and approval. The Commission may approve, by rule or order, a proposed Reliability Standard or modification to a Reliability Standard if it determines that the Standard is just, reasonable, not unduly discriminatory or preferential and in the public interest.[4] Once approved, the Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.[5] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[6] and subsequently certified NERC.[7]

4. On March 16, 2007, the Commission issued Order No. 693, approving 83 of the 107 Reliability Standards filed by NERC, including Reliability Standard BAL–002–0.[8] In

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[1] 16 U.S.C. 824(o). Proposed Reliability Standard BAL–002–2 is available on the Commission's eLibrary document retrieval system in Docket No. RM16–7–000 and on the NERC Web site, *www.nerc.com.*

[2] ACE is the instantaneous difference between a balancing authority's Net Actual and Scheduled Interchange, taking into account the effects of Frequency Bias, correction for meter error, and Automatic Time Error Correction, if operating in that mode. NERC Glossary of Terms Used in NERC Reliability Standards at 7 (updated April 20, 2016).

[3] 16 U.S.C. 824o(d)(5).

[4] *Id.* 824o(d)(2).

[5] *Id.* 824o(e).

[6] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[7] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[8] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs.

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addition, pursuant to section 215(d)(5) of the FPA, the Commission directed the ERO to develop modifications to Reliability Standard BAL–002–0 to: (1) Include a requirement that explicitly provides that demand side management may be used as a resource for contingency reserves; (2) develop a continent-wide contingency reserve policy; and (3) refer to the ERO rather than the NERC Operating Committee in Requirements R4.2 and R6.2.[9] On January 10, 2011, the Commission approved Reliability Standard BAL–002–1, which addressed the third directive described above.[10]

### *B. Proposed Reliability Standard BAL–002–2*

5. On January 29, 2016, NERC filed a petition seeking approval of proposed Reliability Standard BAL–002–2; eight new or revised definitions to be added to the NERC Glossary; and the associated violation risk factors and violation severity levels, effective date, and implementation plan.[11] NERC states that the proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest because it satisfies the factors set forth in Order No. 672, which the Commission applies when reviewing a proposed Reliability Standard.[12] NERC also contends that proposed Reliability Standard BAL–002–2 addresses the outstanding directives from Order No. 693 regarding the use of demand side management as a resource for contingency reserve and the development of a continent-wide contingency reserve policy.

6. NERC proposes to consolidate six requirements in currently-effective Reliability Standard BAL–002–1 into three requirements. NERC contends that proposed Reliability Standard BAL–002–2 improves upon existing Reliability Standard BAL–002–1 because "it clarifies obligations associated with achieving the objective of BAL–002 by streamlining and organizing the responsibilities required therein, enhancing the obligation to maintain reserves, and further defining events that predicate action under the standard."[13] NERC also maintains that proposed Reliability Standard BAL–002–2 "address[es] and supersede[s]" the proposed interpretation previously submitted by NERC (*i.e.*, of Reliability Standard BAL–002–1a) and now pending in Docket No. RM13–6–000.[14]

7. Proposed Requirement R1 requires a responsible entity, either a balancing authority or reserve sharing group, experiencing a Reportable Balancing Contingency Event to deploy its contingency reserves to recover its ACE to certain prescribed values within the Contingency Event Recovery Period of 15 minutes.[15] However, proposed Reliability Standard BAL–002–2 relieves responsible entities from strict compliance with the existing time periods for ACE recovery and contingency reserve restoration "to ensure responsible entities retain flexibility to maintain service to Demand, while managing reliability, and to avoid duplication with other Reliability Standards."[16]

8. Specifically, Requirement R1, Part 1.3.1 provides that a balancing authority or reserve sharing group is not subject to Requirement R1, Part 1.1 if it: (1) Is experiencing a Reliability Coordinator declared Energy Emergency Alert Level; (2) is utilizing its contingency reserve to mitigate an operating emergency in accordance with its emergency Operating Plan, and (3) has depleted its contingency reserve to a level below its most severe single contingency (MSSC).

9. In addition, under Requirement R1, Part 1.3.2, a balancing authority or reserve sharing group is not subject to Requirement R1, Part 1.1 if the balancing authority or reserve sharing group experiences: (1) Multiple Contingencies where the combined megawatt (MW) loss exceeds its most severe single contingency and that are defined as a single Balancing Contingency Event or (2) multiple Balancing Contingency Events within the sum of the time periods defined by the Contingency Event Recovery Period and Contingency Reserve Restoration Period whose combined magnitude exceeds the Responsible Entity's most severe single contingency.

10. Proposed Requirement R2 provides that each responsible entity:

> shall develop, review and maintain annually, and implement an Operating Process as part of its Operating Plan to determine its Most Severe Single Contingency and to make preparations to have Contingency Reserve equal to, or greater than the Responsible Entity's Most Severe Single Contingency available for maintaining system reliability.

NERC explains that Requirement R2 requires responsible entities to demonstrate that their process for calculating their most severe single contingency "surveys all contingencies, including single points of failure, to identify the event that would cause the greatest loss of resource output used by the [reserve sharing group or balancing authority] to meet Firm Demand."[17] NERC further states that Requirement R2 supports Requirements R1 and R3 in proposed Reliability Standard BAL–002–2 "as these requirements rely on proper calculation of [most severe single contingency]."[18]

11. Proposed Requirement R3 provides that "each Responsible Entity, following a Reportable Balancing Contingency Event, shall restore its Contingency Reserve to at least its Most Severe Single Contingency, before the end of the Contingency Reserve Restoration Period [90 minutes], but any Balancing Contingency Event that occurs before the end of a Contingency Reserve Restoration Period resets the beginning of the Contingency Event Recovery Period."

12. NERC explains that the revised language in the consolidated requirements in proposed Reliability

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¶ 31,242, *order on reh'g*, Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[9] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 356.

[10] *North American Electric Reliability Corp.*, 134 FERC ¶ 61,015 (2011).

[11] The eight proposed new and revised definitions for inclusion in the NERC Glossary are for the following terms: Balancing Contingency Event, Most Severe Single Contingency, Reportable Balancing Contingency Event, Contingency Event Recovery Period, Contingency Reserve Restoration Period, Pre-Reporting Contingency Event ACE Value, Reserve Sharing Group Reporting ACE, and Contingency Reserve. NERC Petition at 28–34.

[12] NERC Petition at 13 and Ex. F (Order No. 672 Criteria).

[13] *Id.* at 13.

[14] *Id.* at 1. On February 12, 2013, NERC filed a proposed interpretation of Reliability Standard BAL–002–1 that construed the Reliability Standard so that the 15 minute ACE recovery period would not apply to events of a magnitude exceeding an entity's most severe single contingency. In a NOPR issued on May 16, 2013, the Commission proposed to remand the proposed interpretation on procedural grounds. *Electric Reliability Organization Interpretation of Specific Requirements of the Disturbance Control Performance Standard,* 143 FERC ¶ 61,138 (2013). The rulemaking on the proposed interpretation is pending. In the petition in the immediate proceeding, NERC states that, upon approval of proposed Reliability Standard BAL–002–2, NERC will file a notice of withdrawal of the proposed interpretation. NERC Petition at 1.

[15] Reportable Balancing Contingency Event means: "Any Balancing Contingency Event occurring within a one-minute interval of an initial sudden decline in ACE based on EMS scan rate data that results in a loss of MW output less than or equal to the Most Severe Single Contingency, and greater than or equal to the lesser amount of: (i) 80% of the Most Severe Single Contingency, or (ii) the amount listed below for the applicable Interconnection. Prior to any given calendar quarter, the 80% threshold may be reduced by the responsible entity upon written notification to the Regional Entity." NERC Petition at 30. Contingency Event Recovery Period means: "A period that begins at the time that the resource output begins to decline within the first one-minute interval of a Reportable Balancing Contingency Event, and extends for fifteen minutes thereafter." *Id.* at 32.

[16] *Id.* at 4.

[17] *Id.* at 25.

[18] *Id.* NERC provides examples of how responsible entities may calculate the most severe single contingency in the petition. *See* NERC Petition, Ex. B (Calculating Most Severe Single Contingency).

Standard BAL–002–2 will improve efficiency and clarity by removing "unnecessary entities from compliance to capture only those entities that are vital for reliability." [19] NERC states that the proposed new definitions for Balancing Contingency Event and Reportable Balancing Contingency Event more clearly identify the types of events that cause frequency deviations necessitating action under the proposed Reliability Standard and provide additional detail regarding the types of resources that may be identified as contingency reserves. Furthermore, NERC states that proposed Reliability Standard BAL–002–2 "ensures objectivity of the reserve measurement process by guaranteeing a Commission-sanctioned continent-wide reserve policy," and therefore satisfies an outstanding Order No. 693 directive for uniform elements, definitions and requirements for a continent-wide contingency reserve policy.[20] Finally, NERC states that the proposed revised definition of Contingency Reserves "improves the existing definition by addressing a Commission directive in Order No. 693 to allow demand side management to be used as a resource for contingency reserve when necessary." [21]

13. NERC submitted proposed violation risk factors and violation severity levels for each requirement of the proposed Reliability Standard and an implementation plan and effective dates. NERC states that these proposals were developed and reviewed for consistency with NERC and Commission guidelines. NERC proposes an effective date for the proposed Reliability Standard that is the first day of the first calendar quarter that is six months after the date of Commission approval. NERC explains that the proposed implementation date will allow entities to make necessary modifications to existing software programs to ensure compliance.[22]

14. On February 12, 2016, NERC submitted a supplemental filing to clarify a statement in the petition that proposed Reliability Standard BAL–002–2 would operate in conjunction with Reliability Standard TOP–007–0 to control system frequency by addressing transmission line loading in the event of a transmission overload. NERC explains that, while Reliability Standard TOP–007–0 will be retired on April 1, 2017, "the obligations related to [transmission line loading] under TOP–007–0 will be covered by Commission-approved TOP–001–3, EOP–003–2, IRO–009–2, and IRO–008–2 . . . by requiring relevant functional entities to communicate [Interconnection Reliability Operating Limits (IROL)] and [System Operating Limits (SOL)] exceedances so that the [reliability coordinator] can direct appropriate corrective action to mitigate or prevent those events." [23]

15. On March 31, 2016, NERC submitted a second supplemental filing to "further clarify the extent to which BAL–002–2 interacts with other Commission-approved Reliability Standards to promote Bulk Power System reliability . . . [and support] the overarching policy objective reflected in the stated purpose of Reliability Standard BAL–002–2." [24] In its filing, NERC expands upon the explanation in the petition regarding how an "integrated" and "coordinated suite of Reliability Standards" (BAL–001–2, BAL–003–1, TOP–007–0, EOP–002–3, EOP–011–1, IRO–008–2, and IRO–009–2) will apply to events causing MW losses above a responsible entity's most severe single contingency, and how those other Reliability Standards are better designed to manage the greater risks created by such events.[25]

## II. Discussion

16. Pursuant to FPA section 215(d)(2), we propose to approve Reliability Standard BAL–002–2 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. We also propose to approve NERC's eight new and revised proposed definitions and, with certain proposed modifications, the proposed violation risk factor and violation severity level assignments. In addition, we propose to approve NERC's implementation plan, in which NERC proposes an effective date of the first day of the first calendar quarter, six months after the date of Commission approval, and the retirement of currently-effective BAL–002–1 immediately before that date.[26]

17. The purpose of proposed Reliability Standard BAL–002–2 is to ensure that balancing authorities and reserve sharing groups balance resources and demand and return their ACE to defined values following a Reportable Balancing Contingency Event. We agree with NERC that it is essential for grid reliability for responsible entities to balance resources and demand, and restore system frequency, to recover from a system event, and that they maintain reserves necessary to replace capacity and energy lost due to generation or transmission outages. Proposed Reliability Standard BAL–002–2 improves upon currently-effective Reliability Standard BAL–002–1 by consolidating the number of requirements to streamline and clarify the obligations related to achieving these goals.

18. We believe that proposed BAL–002–2 satisfies the Order No. 693 directive that NERC develop a continent-wide contingency reserve policy.[27] Further, we agree with NERC that, in addition to the proposed Reliability Standard, the development of a continent-wide contingency reserve policy includes revisions to Reliability Standard BAL–001–1a (superseded by BAL–001–1) (Real Power Balancing Control Performance).[28] When approving Reliability Standard BAL–002–0 in Order No. 693, the Commission directed the ERO to develop modifications to Reliability Standard BAL–002–0 to include a requirement that explicitly provides that demand side management may be used as a resource for contingency reserves.[29] NERC states that the "proposed definition of Contingency Reserve improves the existing definition by addressing a Commission directive in Order No. 693 to allow demand side management to be used as a resource for contingency reserve when necessary." [30] Further, NERC asserts that the drafting team elected to expand the definition of contingency reserve to explicitly include capacity associated with demand side management.[31] However, the proposed definition does not include the NERC-defined term Demand-Side Management.[32] The Commission seeks comment on whether the proposed definition of contingency reserve should include the NERC-defined term Demand-Side Management for better clarity.

19. In addition to proposing to approve Reliability Standard BAL–002–

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[19] NERC Petition at 14.

[20] *Id.*

[21] *Id.* at 33.

[22] *Id.* Ex. D (Implementation Plan) at 3.

[23] NERC February 12, 2016 Supplemental Filing at 2–3.

[24] NERC March 31, 2016 Supplemental Filing at 1, 5.

[25] *Id.* at 2–5.

[26] NERC Petition, Ex. D (Implementation Plan) at 3.

[27] Order No. 693, FERC Stats. & Regs ¶ 31,242 at PP 340, 341 and 356.

[28] NERC Petition at 9.

[29] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 330, 335 and 356.

[30] NERC Petition at 33.

[31] NERC Petition, Ex. E (BAL–002–2 Background Document) at 6.

[32] The NERC Glossary currently defines Demand-Side Management as "the term for all activities or programs undertaken by Load Serving Entity or its customers to influence the amount or timing of electricity they use." NERC Glossary of Terms Used in NERC Reliability Standards at 35 (updated April 20, 2016). As of July 1, 2016, the new definition of Demand-Side Management will be: "All activities or programs undertaken by any applicable entity to achieve a reduction in Demand." *Id.*

2, the Commission, pursuant to section 215(d)(5) of the FPA, proposes to direct NERC to develop modifications regarding the 15-minute ACE recovery period in Requirement R1 and the 90-minute Contingency Reserve Restoration Period in Requirement R3 under certain circumstances. We also propose to direct NERC to develop a new or modified Reliability Standard that addresses the reliability impact of megawatt losses above a responsible entity's most severe single contingency, because "recovery of ACE within a specified time period and restoration of Contingency Reserves due to unlikely events above a responsible entity's most severe single contingency is not within the scope of proposed Reliability Standard BAL–002–2." [33]

20. The Commission seeks comment on the following issues discussed below: (1) The 15-minute ACE recovery period; (2) the 90-minute Contingency Reserve Restoration Period; (3) the exclusion of losses above the most severe single contingency in the proposed definition of Reportable Balancing Contingency Event; and (4) NERC's proposal to reduce from High to Medium the violation risk factor for proposed Requirements R1 and R2.

### *A. The 15-Minute ACE Recovery Period*

21. Proposed Reliability Standard BAL–002–2, Requirement R1 obligates a balancing authority or reserve sharing group that experience a Reportable Balancing Contingency Event to return its Reporting ACE to pre-defined values within the 15-minute Contingency Event Recovery Period. Proposed Requirement R1, Part 1.3.1 provides an "exemption" from the 15-minute ACE recovery period based upon the occurrence of a reliability coordinator-declared Energy Emergency Alert level and the depletion of the entity's contingency reserves to below its most severe single contingency to mitigate the operating emergency. NERC states that this exemption "eliminates the existing conflict with EOP–011–1, as it removes undefined auditor discretion when assessing compliance and allows the responsible entity flexibility to maintain service to load while managing reliability." [34] Further, NERC explains that this exemption does not eliminate an entity's obligation to respond to a Reportable Balancing Contingency Event, but rather it will "simply allow more time to return the Reporting ACE to the defined limits than would otherwise be allowed." [35] The proposed Reliability Standard does not expressly provide a definitive and enforceable deadline for ACE recovery under these circumstances.

22. In proposing to approve Reliability Standard BAL–002–2, we agree that NERC's proposal clarifies the obligations imposed on responsible entities and is therefore an improvement on currently-effective Reliability Standard BAL–002–1. Furthermore, Proposed Reliability Standard BAL–002–2 improves on the currently effective BAL–002–1 by obligating the responsible entities to accurately calculate most severe single contingency according to system models maintained by the balancing authority and reserve sharing groups. NERC's explanation for the relief from the 15-minute ACE recovery period raises concerns, however, because it is unclear how or when an entity will prepare for a second contingency during the indeterminate extension of the 15-minute ACE recovery period that proposed Requirement R1, Part 1.3 permits. A balancing authority that is operating out-of-balance for an extended period of time is "leaning on the system" by relying on external resources to meet its obligations and could affect other entities within an Interconnection, particularly if another entity is reacting to a grid event while unaware that the first entity has not restored its ACE. Therefore, while an extension of the 15-minute ACE recovery period may be appropriate under certain emergency conditions, we believe that the reliability coordinator should make that decision rather than an individual balancing authority or reserve sharing group. With a wide-area view, the reliability coordinator has the authority, with more or better information and objectivity, to make the decision whether to extend the ACE recovery period after an entity has met the criteria described in Requirement R1, Part 1.3.1. In other words, a reliability coordinator's extension of the 15-minute ACE recovery period may be appropriate based on all of the circumstances, if an entity has met the criteria in Requirement R1, Part 1.3.1.

23. NERC suggests that reliability coordinator approval of an extension of the 15-minute ACE recovery period is redundant because the reliability coordinator is involved in the creation of balancing authority Operating Plans pursuant to Reliability Standard EOP–011–1, which already requires a balancing authority to communicate with its reliability coordinator.[36] However, there is currently no express requirement that the reliability coordinator must make or approve the decision to extend the 15-minute ACE recovery period. Further, while Reliability Standard EOP–011–1, Requirement R3, requires the reliability coordinator to review balancing authority Operating Plans and notify a balancing authority of any "reliability risks" the reliability coordinator may identify with a time frame for the resubmittal of revised Operating Plans, that Reliability Standard does not require reliability coordinator approval of Operating Plans.

24. Accordingly, the Commission proposes to direct NERC to develop modifications to Reliability Standard BAL–002–2 that would require Reporting ACE recovery within the 15-minute Contingency Event Recovery Period unless the relevant reliability coordinator expressly authorizes an extension of the 15-minute ACE recovery period after the balancing authority has met the criteria described in Requirement R1, Part 1.3.1. Additionally, the Commission's proposal would include modifying the standard to identify the reliability coordinator as an Applicable Entity. The Commission seeks comment on this proposal.

### *B. The 90-Minute Contingency Reserve Restoration Period*

25. Proposed Reliability Standard BAL–002–2, Requirement R3 requires a balancing authority or reserve sharing group to restore its contingency reserves to at least its most severe single contingency before the end of the Contingency Reserve Restoration Period, which NERC proposes to define as "a period not exceeding 90 minutes following the end of the Contingency Event Recovery Period." [37] Requirement R3 further states that "any Balancing Contingency Event that occurs before the end of a Contingency Reserve Restoration Period resets the beginning of the Contingency Event Recovery Period." [38] Under this approach, a

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[33] NERC Petition at 14–15.

[34] NERC Petition at 22.

[35] *Id.* at 24.

[36] *Id.* at 23.

[37] NERC Petition, Ex. D (Implementation Plan). The 90-minute contingency reserve restoration period begins after the end of the 15-minute ACE restoration period under Requirement R1. Accordingly, responsible entities must restore contingency reserves within 105 minutes of the occurrence of a Reportable Balancing Contingency Event to comply with Requirement R3.

[38] Balancing Contingency Event means: "Any single event described in Subsections (A), (B), or (C) below, or any series of such otherwise single events, with each separated from the next by one minute or less.

A. Sudden loss of generation:

a. Due to

i. unit tripping,

second contingency "resets" this 90-minute restoration window, regardless of the amount of the megawatt loss resulting from that event.

26. NERC asserts that the 90-minute contingency restoration period "is just and reasonable by providing adequate opportunity for a responsible entity to recover from an event while also maintaining reliability and recovery of reserves in a timely manner."[39] Further, NERC states that the "reset" for a Balancing Contingency Event provides "time and flexibility for an entity's ongoing recovery," and is intended to accommodate the "heightened sensitivities applicable during such a Contingency Reserve Restoration Period."[40] NERC explains that the " 'reset' avoids punishing a responsible entity for an unexpected event, occurring within [sic] Contingency Restoration Period, which may make it infeasible to fully restore the requisite level of Contingency Reserves as intended."[41]

27. We agree with NERC that a "reset" of the Contingency Reserve Restoration Period may be appropriate in some instances. For example, a Balancing Contingency Event involving substantial megawatt loss that occurs during the recovery period following a Reportable Balancing Contingency Event may make it infeasible to fully restore the contingency reserves as originally planned. Proposed Reliability Standard BAL–002–2 Requirement R3 improves on the currently-effective BAL–002–1 by requiring the balancing authority or reserve sharing group to restore its contingency reserves to "at least its MSSC" following a reportable balancing contingency event. However, Requirement R3 potentially allows unlimited "resets" of the 90-minute restoration period, even for insignificant megawatt losses from a Balancing Contingency Event that occur after the initial Reportable Balancing Contingency Event.

28. NERC explains that responsible entities need relief from the loss of any additional megawatts above those resulting from a Reportable Balancing Contingency Event because "this compounding loss inevitably increases the total recovery necessary to replenish the reserves while also meeting current demand."[42] However, while megawatt losses occurring during the Contingency Reserve Restoration Period that qualify as a Reportable Balancing Contingency Event could reasonably justify an extension of the 90-minute Contingency Reserve Restoration Period, there is less need for a Balancing Contingency Event, which could involve an insignificant loss of megawatts, to result automatically in a resetting of the time period. Under such circumstances, balancing authorities and reserve sharing groups should be required to restore the initial megawatt losses associated with the Reportable Balancing Contingency Event within the 90-minute restoration period, but could be allowed to "credit" megawatt losses from the Balancing Contingency Event, and have an additional 90 minutes to restore those losses.[43] This would prevent the possibility of multiple resets that could result in entities not maintaining sufficient contingency reserves for long periods of time.

29. The Commission proposes to direct that NERC develop modifications to Reliability Standard BAL–002–2 to eliminate the potential for unlimited resets and ensure that contingency reserves must be restored within the 90-minute Contingency Reserve Restoration Period. One possible approach would be to give a balancing authority or reserve sharing group "credits" for megawatt losses resulting from Balancing Contingency Events during the 90-minute Contingency Reserve Restoration Period and allow an additional 90 minutes to restore reserves associated with those megawatt losses, if necessary. The Commission seeks comment on this proposal.

### *C. Exclusion of Megawatt Losses Above the Most Severe Single Contingency*

30. NERC proposes to define Reportable Balancing Contingency Event as:

> [a]ny Balancing Contingency Event occurring within a one-minute interval of an initial sudden decline in ACE based on EMS scan rate data that results in a loss of MW output less than or equal to the [most severe single contingency], and greater than or equal to the lesser amount of: (i) 80% of the [most severe single contingency] . . . Prior to any given calendar quarter, the 80% threshold may be reduced by the responsible entity upon written notification to the Regional Entity.

NERC states that this definition "provides the scope of obligations required under Requirements R1 and R3 of BAL–002–2 [and] impose obligations on responsible entities to take certain recovery actions upon the occurrence of a Reportable Balancing Contingency Event to sustain Reporting ACE and adequate levels of Contingency Reserves."[44]

31. NERC's proposed definition would limit balancing authority and reserve sharing group responsibility to megawatt losses between 80 percent and 100 percent of their most severe single contingency that occur within a one minute interval. As NERC explains, if a balancing authority has a most severe single contingency of 1000 megawatts and a generation unit with a capacity of 850 megawatts is lost, this system event is within the scope of proposed Reliability Standard BAL–002–2 because the loss is greater than 80 percent of, but does not exceed, the most severe single contingency. NERC contrasts that situation with the example of a balancing authority's loss of two generation units, one of 750 megawatts and another of 300 megawatts within 60 seconds of one another. The total generation loss of 1050 megawatts in this example is exempt from proposed Reliability Standard BAL–002–2 because the total loss resulting from the two events, which are aggregated because both events occurred within one minute of each other, is greater than the balancing authority's most severe single contingency of 1000 megawatts.[45]

32. NERC explains that events causing megawatt losses above a balancing authority's or reserve sharing group's most severe single contingency are not within the scope of proposed Reliability Standard BAL–002–2, and therefore those megawatt losses are not subject to the 15-minute ACE recovery period or the 90-minute Contingency Reserve Restoration Period.[46] Instead, balancing

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ii. loss of generator Facility resulting in isolation of the generator from the Bulk Electric System or from the responsible entity's System, or

iii. sudden unplanned outage of transmission Facility;

b. And, that causes an unexpected change to the responsible entity's ACE;

B. Sudden loss of an import, due to unplanned outage of transmission equipment that causes an unexpected imbalance between generation and Demand on the Interconnection.

C. Sudden restoration of a Demand that was used as a resource that causes an unexpected change to the responsible entity's ACE. NERC Petition Ex. D."

[39] NERC Petition at 26.

[40] *Id.* at 27.

[41] *Id.*

[42] *Id.*

[43] For example, two generation units are lost, one of 900 MW (a Reportable Balancing Contingency Event) and another of 200 MW (a Balancing Contingency Event) 16 minutes later. Because of this second 200 MW loss, the balancing authority would be required to restore its contingency reserves to 700 MW (900 MW less the 200 MW Balancing Contingency Event) within the 90-minute contingency restoration period.

[44] NERC Petition at 30–31 and Ex. D (Implementation Plan).

[45] *See* NERC Petition, Ex. A (Examples of Reportable Balancing Contingency Events).

[46] NERC states that between 2006 and 2011, ninety disturbance events exceeded the most severe single contingency, with no year experiencing more than 29 events. According to NERC, "evaluation of this data illustrates that events greater than MSSC occur very infrequently." NERC March 31, 2016

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authorities and reserve sharing groups must respond to these large events under the suite of related Reliability Standards mentioned above: BAL–001–2, BAL–3–1, TOP–007–0, EOP–002–3, EOP–011–1, IRO–008–2, and IRO–009–2. According to NERC, "this integrated and coordinated approach would ensure reliability while also avoiding any gap in coverage and providing means to address complex issues arising during events that exceed MSSC."[47]

33. NERC's proposed limitation on the scope of proposed Reliability Standard BAL–002–2 raises questions, particularly NERC's assumption that megawatt exceedances above the most severe single contingency, however small, often or always will result in "complex issues." We recognize that in extreme megawatt loss scenarios triggering energy emergencies, Reliability Standard EOP–011–1 and the broader suite of Reliability Standards NERC mentions could provide appropriate reliability protection when proposed Reliability Standard BAL–002–2 would not apply. However, a reliability gap may exist for megawatt exceedances of the most severe single contingency that do not cause energy emergencies or otherwise clearly implicate the other Reliability Standards cited by NERC. Our concern is that unless this gap is addressed, the potential for balancing authorities to lean on the Interconnection by relying on external resources for an indeterminate period exists.

34. The Commission seeks comment from NERC and other entities on how to address that gap and whether to impose a reasonable obligation for balancing authorities and reserve sharing groups to address scenarios involving megawatt losses above the most severe single contingency that do not cause energy emergencies. Based on the comments, the Commission may direct that NERC develop a new or modified Reliability Standard to address that reliability gap.

### *D. NERC's Proposed Violation Risk Factor for Requirements R1 and R2*

35. NERC proposes a "medium" violation risk factor for each requirement of proposed Reliability Standard BAL–002–2. Currently-effective Reliability Standard BAL–002–1 assigns a "high" violation risk factor for its Requirements R3 and R3.1, which NERC explains are analogous to proposed Requirements R1 and R2 in the proposed Reliability Standard.[48] We do not believe that NERC adequately justifies lowering the assignment of the violation risk factor for proposed Requirements R1 and R2 from high to medium. Proposed Requirement R1 requires a balancing authority or reserve sharing group to deploy contingency reserves in response to all Reportable Balancing Contingency Events as the means for recovering Reporting ACE. Proposed Requirement R2 requires a balancing authority or reserve sharing group to develop, review and maintain a process within its Operating Plans for determining its most severe single contingency and to prepare to have contingency reserves equal to, or greater than, its most severe single contingency.

36. NERC provides insufficient support for the proposed violation risk factor for proposed Requirements R1 and R2. In justifying the assignment of a medium violation risk factor. NERC asserts, without explanation, that a medium violation risk factor is "consistent with other reliability standards (*i.e.,* BAL–001–2, BAL–003–1)."[49] NERC also contends, without explanation, that proposed Requirement R3 is similar in concept to the current enforceable BAL–001–0.1a standard Requirements R1 and R2, which have an approved Medium [violation risk factor], and approved reliability standards BAL–001–1 and BAL–003–1.[50] The conclusory statements in NERC's petition regarding the alleged similarities between proposed Requirements R1 and R2 and other Reliability Standards does not adequately explain the alleged bases for reducing the violation risk factor for Requirements R1 and R2 from the analogous Requirement R3 in the currently-effective Reliability Standard.

37. NERC further states that while a violation of proposed Requirements R1 or R2 could directly affect the electrical state or capability of the bulk electric system, it "would unlikely result in the Bulk Electric System instability, separation or cascading failures since this requirement is an after-the-fact calculation, not performed in Real-time."[51] We believe this to be an inadequate justification for lowering the violation risk factors for proposed Requirements R1 and R2. While a calculation of how far out of compliance may occur after the fact, the issue is the risk resulting from a failure to meet the performance set forth in the requirement in real time. With regard to proposed Requirement R2 requiring responsible entities to have a process for determining their most severe single contingency, NERC itself states that "proper calculation of MSSC is critical for reliability."[52]

38. Accordingly, we propose to direct that NERC assign a high violation risk factor to proposed Reliability Standard BAL–002–2, Requirements R1 and R2. We seek comment on this proposal.

## III. Information Collection Statement

39. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.[53] Upon approval of a collection(s) of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

40. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the Paper Reduction Act of 1995, 44 U.S.C. 3507(d) (2012). Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

41. This Notice of Proposed Rulemaking proposes to approve revisions to Reliability Standard BAL–002–2. NERC states in its petition that the proposed Reliability Standard applies to balancing authorities and reserve sharing groups, and is designed to ensure that these entities are able to recover from system contingencies by deploying adequate reserves to return their ACE to defined values and by replacing the capacity and energy lost due to generation or transmission equipment outages. The Commission also proposes to approve NERC's seven proposed new definitions and one proposed revised definition, and the retirement of currently-effective Reliability Standard BAL–002–1

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Supplemental Filing at 3, n.5, citing the *2012 State of Reliability* (May 2012) accessible online at *http://www.nerc.com/files/2012_sor.pdf.*

[47] NERC Petition at 15.

[48] NERC Petition, Ex. I (Mapping Document for BAL–002–2).

[49] NERC Petition, Ex. G (Analysis of Violation Risk Factors and Violation Severity Levels) at 4.

[50] *Id.*

[51] *Id.* Ex. G (Analysis of Violation Risk Factors and Violation Severity Levels) at 3–4.

[52] NERC March 31, 2016 Supplemental Filing at 3.

[53] 5 CFR 1320.11.

immediately prior to the effective date of BAL–002–1.

42. *Public Reporting Burden:* Our estimate below regarding the number of respondents is based on the NERC Compliance Registry as of April 15, 2016. According to the NERC Compliance Registry, there are 70 balancing authorities in the Eastern Interconnection, 34 balancing authorities in the Western Interconnection and one balancing authority in the Electric Reliability Council of Texas (ERCOT). The Commission bases individual burden estimates on the time needed for balancing authorities and reserve sharing groups to maintain annually, the operating process and operating plan that are required in the Reliability Standard. These burden estimates are consistent with estimates for similar tasks in other Commission-approved Reliability Standards. The following estimates relate to the requirements for this Notice of Proposed Rulemaking in Docket No. RM16–7–000.

### RM16–7–000 NOPR

[BAL–002–2: Disturbance Control Standard—Contingency Reserve for Recovery from a Balancing Contingency Event][54]

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden hours & cost per response[55] (4) | Total annual burden hours & total annual cost (3) * (4) = (5) | Cost per respondent ($) (5) ÷ (1) |
|---|---|---|---|---|---|---|
| BA/RSG:[56] Develop and Maintain annually, Operating Process and Operating Plans | 105 | 1 | 105 | 8<br>$773 | 840<br>$81,119 | $773 |
| BA/RSG: Record Retention[57] | 105 | 1 | 105 | 4<br>$112 | 420<br>$11,760 | 112 |
| Total | | | 210 | | 1.260<br>$92,879 | 885 |

*Title:* FERC–725R, Mandatory Reliability Standard BAL–002–2.

*Action:* Proposed Collection of Information.

*OMB Control No.:* 1902–0268.

*Respondents:* Businesses or other for-profit institutions; not-for-profit institutions.

*Frequency of Responses:* On Occasion.

*Necessity of the Information:* This proposed rule proposes to approve Reliability Standard BAL–002–2, which is designed to ensure that a responsible entity, either a balancing authority or reserve sharing group, is able to recover from system contingencies by deploying adequate reserves to return their ACE to defined values and replacing the capacity and energy lost due to generation or transmission equipment outages. Proposed Reliability Standard BAL–002–2, Requirement R1 requires a responsible entity, either a balancing authority or reserve sharing group, experiencing a Reportable Balancing Contingency Event to deploy its contingency reserves to recover its ACE to certain prescribed values within the Contingency Event Recovery Period of 15 minutes. Proposed Requirement R2 requires a balancing authority or reserve sharing group to develop, review and maintain a process within its Operating Plans for determining its most severe single contingency and prepare to have contingency reserves equal to, or greater than, its most severe single contingency. Proposed Requirement R3 provides that, following a Reportable Balancing Contingency Event, the responsible entity shall restore its Contingency Reserve to at least its most severe single contingency, before the end of the Contingency Reserve Restoration Period of 90 minutes.

*Internal Review:* The Commission reviewed the proposed Reliability Standard and made a determination that its action is necessary to implement section 215 of the FPA. These requirements, if accepted, should conform to the Commission's expectation for generation and demand balance throughout the Eastern and Western Interconnections as well as within the ERCOT Region.

43. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

44. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638, fax: (202) 395–7285]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include FERC–725R and Docket Number RM16-7–000.

## IV. Environmental Analysis

45. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[58] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the

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[54] Proposed Reliability Standard BAL–002–2 applies to balancing authorities and reserve sharing groups. However, the burden associated with the balancing authorities complying with Requirements R1 and R3 is not included within this table because the Commission accounted for it under Commission-approved Reliability Standard BAL–002–1.

[55] The estimated hourly cost (salary plus benefits) of $96.57 is an average based on Bureau of Labor Statistics (BLS) information (*http://www.bls.gov/oes/current/naics2_22.htm*) for an electrical engineer ($64.20/hour) and a lawyer ($128.94).

[56] BA = Balancing Authority; RSG = Reserve Sharing Group.

[57] $28/hour, based on a Commission staff study of record retention burden cost.

[58] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

regulations being amended.[59] The actions proposed here fall within this categorical exclusion in the Commission's regulations.

## V. Regulatory Flexibility Act

46. The Regulatory Flexibility Act of 1980 (RFA)[60] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. As shown in the information collection section, the proposed Reliability Standard applies to 105 entities. Comparison of the applicable entities with the Commission's small business data indicates that approximately 23[61] are small business entities.[62] Of these, the Commission estimates that approximately five percent, or one of these 23 small entities, will be affected by the new requirements of the proposed Reliability Standard.

47. The Commission estimates that the small entities affected by proposed Reliability Standard BAL–002–2 will incur an annual compliance cost of up to $20,355 (*i.e.,* the cost of developing, and maintaining annually operating process and operating plans), resulting in a cost of approximately $885 per balancing authority and/or reserve sharing group. These costs represent an estimate of the costs a small entity could incur if the entity is identified as an applicable entity. The Commission does not consider the estimated cost per small entity to have a significant economic impact on a substantial number of small entities. Accordingly, the Commission certifies that this NOPR will not have a significant economic impact on a substantial number of small entities.

## VI. Comment Procedures

48. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due July 25, 2016. Comments must refer to Docket No. RM16–7–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

49. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

50. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

51. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

## VII. Document Availability

52. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

53. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number of this document, excluding the last three digits, in the docket number field.

54. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Issued: May 19, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–12428 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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[59] 18 CFR 380.4(a)(2)(ii).

[60] 5 U.S.C. 601–612.

[61] 21.73 percent of the total number of affected entities.

[62] The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. For the analysis in this Final Rule, we are using a 500 employee threshold for each affected entity. Each entity is classified as Electric Bulk Power Transmission and Control (NAICS code 221121).

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## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms, and Explosives

### 27 CFR Part 478

### [Docket No. ATF 24P; AG Order No. 3672–2016]

### RIN 1140–AA10

## Commerce in Firearms and Explosives; Secure Gun Storage, Amended Definition of Antique Firearm, and Miscellaneous Amendments

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Justice (DOJ) proposes amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), largely to codify into regulation certain provisions of Public Law 105–277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. The proposed rule would amend ATF's regulations to account for the existing statutory requirement for applicants for firearms dealer licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensed individuals. This certification is already included in the ATF Form 7, Application for Federal Firearms License. The proposed regulation would also require applicants for manufacturer or importer licenses to complete the certification if the licensee will have premises where firearms are sold to nonlicensees. Moreover, the proposed regulation would require that the secure gun storage or safety device be compatible with the firearms offered for sale by the licensee. Finally, it also would conform the definitions of certain terms to the statutory language set forth in the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, including the definition of "antique firearm," which would be amended to include certain modern muzzle loading firearms.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before August

24, 2016. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** Send comments to any of the following addresses—

- George M. Fodor, Mailstop 6.N–523, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226; *ATTN: ATF 24P.* Written comments may be of any length and must appear in a minimum 12-point type (.17 inches), include a complete mailing address, and be signed.
- 202–648–9741 (facsimile).
- *http://www.regulations.gov.* Federal eRulemaking portal; follow the instructions for submitting comments.

You may also view an electronic version of this proposed rule at the *http://www.regulations.gov* site.

See the Public Participation section at the end of the **SUPPLEMENTARY INFORMATION** section for instructions and requirements for submitting comments, and for information on how to request a public hearing.

**FOR FURTHER INFORMATION CONTACT:** George M. Fodor, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE., Washington, DC 20226, telephone (202) 648–7070.

**SUPPLEMENTARY INFORMATION:**

## Background

On October 21, 1998, Public Law 105–277 (112 Stat. 2681), the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (the Act), was enacted. Among other things, the Act amended the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Some of the GCA amendments made by the Act and the proposed regulation changes implementing the law are as follows[1]:

*(1) Secure Gun Storage.* The Act amended subsection 923(d)(1) of the GCA (18 U.S.C. 923(d)(1)) to require that, with certain exceptions, applicants for firearm dealer licenses certify the availability of secure gun storage or safety devices at any place where firearms are sold under the license to nonlicensees. 18 U.S.C. 923(d)(1)(G). ATF interprets this provision as requiring secure gun storage or safety devices to be compatible with the firearms offered for sale by the licensee. Therefore, applicants are required to certify the availability of compatible secure gun storage or safety devices at any place where firearms are sold under the license to nonlicensees. The certification requirement does not apply where a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee. *Id.* The Department proposes to add a new section 27 CFR 478.104 to specify the terms of the certification requirement.

ATF interprets the certification requirement to apply to applicants for importer or manufacturer licenses if the licensee will have premises where firearms are sold to nonlicensees. Federal regulations provide that a licensed importer or a licensed manufacturer may engage in the business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured. 27 CFR 478.41(b). As such, an applicant for an importer or manufacturer license who will be engaged in the business as a dealer and have premises where firearms are sold to nonlicensees will be required to complete the certification.

In addition, the Act amended subsection 923(e) of the GCA (18 U.S.C. 923(e)) to provide that the Attorney General may revoke the license of any federal firearms licensee who fails to have secure gun storage or safety devices available at any place where firearms are sold under the license to nonlicensees, subject to the same exceptions noted above. The Department proposes to amend 27 CFR 478.73 to codify into regulation this provision of the law.

The Act defined the term "secure gun storage or safety device" in 18 U.S.C. 921(a)(34) to mean: (1) A device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device; (2) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or (3) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means. The Department proposes to amend 27 CFR 478.11 by adding a definition for the term "secure gun storage or safety device" that tracks the language in the statute.

An uncodified provision of the Act provides that "[n]otwithstanding any other provision of law, evidence regarding compliance or noncompliance [with the secure gun storage or safety device requirement] shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity." Public Law 105–277 sec. 119, reprinted in 18 U.S.C. 923 note. ATF construes this section as applying to civil liability actions against dealers and other similar actions, and not to proceedings associated with license denials or revocations (or appeals in federal court from decisions in such proceedings) involving noncompliance with the secure gun storage or safety device requirement of the GCA. A basic tenet of statutory construction is that each provision in a law is intended to have some effect. To interpret this provision as applying to license denial and revocation proceedings would result in the amendments to sections 923(d)(1) and (e) having no effective enforcement mechanism. To give meaning to the secure gun storage or safety device requirement and the authorization for the revocation of a license if the federal firearm licensee fails to have secure gun storage or safety devices available, ATF reads this evidentiary limitation as not applying to license denial and revocation proceedings.

The provisions of the Act relating to secure gun storage became effective April 19, 1999.

*(2) Definition of Antique Firearm.* The Act also amended the definition of "antique firearm" in the GCA to include certain modern muzzle loading firearms. Specifically, section 115 of the Act amended the definition of "antique firearm" in subsection 921(a)(16) to include a weapon that is a muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol; that is designed to use black powder or a black powder substitute; and that cannot use fixed ammunition. The term expressly does not include any weapon that incorporates a firearm frame or receiver; any firearm converted into a muzzle-loading weapon; or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the

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[1] This proposed rule does not implement the Child Safety Lock Act of 2005 (CSLA), enacted as part of Public Law 109–92 (119 Stat. 2095), the Protection of Lawful Commerce in Arms Act. The CSLA amended the GCA by adding a new subsection, 18 U.S.C. 922(z), that makes it unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person not licensed under 18 U.S.C. Chapter 44, unless the transferee (buyer) is provided with a secure gun storage or safety device for that handgun. A number of exceptions are provided to this requirement, including transfers of handguns to law enforcement agencies and law enforcement officers and transfers of handguns classified as curios or relics.

barrel, bolt, breechblock, or any combination thereof. *See* 18 U.S.C. 921(a)(16)(C).

The provisions of the Act relating to antique firearms became effective upon the date of enactment, October 21, 1998.

The Department proposes to amend 27 CFR 478.11 to reflect the definition of the term "antique firearm" set forth in the Act.

*(3) Miscellaneous Amendments.* Prior to amendment by the Act, the term "rifle" was defined in the GCA to mean "a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger." 18 U.S.C. 921(a)(7) (1994). The Act amended the definition of "rifle" by replacing the words "the explosive in a fixed metallic cartridge" with "an explosive."

Prior to amendment by the Act, the term "shotgun" was defined in the GCA to mean "a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger." 18 U.S.C. 921(a)(5) (1994). The Act amended the definition of "shotgun" by replacing the words "the explosive in a fixed shotgun shell" with "an explosive."

The provisions of the Act relating to the miscellaneous amendments also became effective upon the date of enactment, October 21, 1998.

The Department proposes to amend 27 CFR 478.11 to reflect the definitions of the terms "rifle" and "shotgun" set forth in the Act.

## How This Document Complies With the Federal Administrative Requirements for Rulemaking

### *A. Executive Orders 12866 and 13563—Regulatory Planning and Review*

This proposed regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, "Improving Regulation and Regulatory Review," section 1(b), General Principles of Regulation.

The Department has determined that this proposed rule is a "significant regulatory action" under section 3(f) of Executive Order 12866 and, accordingly, this proposed rule has been reviewed by the Office of Management and Budget. However, this proposed rule will not have an annual effect on the economy of $100 million, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or tribal governments or communities. Accordingly, this proposed rule is not an "economically significant" rulemaking under Executive Order 12866.

Further, both Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The economic effects associated with this proposed rule are attributable to the statutory requirement that went into effect in 1999 that applicants for federal firearms licenses must certify that, with certain exceptions, secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensees. The proposed rule does not impose additional costs on the licensed dealer beyond what is already required by statute. However, the proposed rule would extend this certification requirement to manufacturers or importers who have premises from which firearms are sold to nonlicensees. The additional costs imposed on these manufacturers and importers is, however, likely to be minimal.

The rule proposes that the licensed dealer, or licensed manufacturer or importer having premises where firearms are sold to nonlicensees, must certify that they will make available firearms safety locks or secure gun storage devices that will be compatible with each type of firearm that the licensee sells. One measure of the cost of these proposed safety device requirements—requirements that, as noted, already are required by statute for licensed dealers—is the opportunity cost of licensees making secure gun storage and safety devices available instead of not stocking them or stocking other products that might have a higher profit margin or that consumers may prefer more. The opportunity cost would be measured as the foregone profit that could be earned by licensees in the absence of the requirement.

ATF lacks data to reliably estimate this opportunity cost. For example, ATF is not aware of any data sources on the number or share of licensees that would not make gun storage or safety devices available absent the statutory requirement, the number and types of gun storage or safety devices that licensees would need to make available in order to comply with the statutory requirement, or the products that licensees would have made available absent the requirement. ATF seeks information from the public on data and methods for estimating the opportunity cost of this requirement.

Although ATF lacks data to reliably estimate the opportunity cost of the safe storage requirement, it is worth noting that a number of factors may affect the number of secure gun storage or safety devices that an individual licensee must supply on his premises and the overall cost to licensees of purchasing the required devices. *First,* dealers, manufacturers, and importers may be able to recover the cost of purchasing secure gun storage or safety devices through the sale of those products to their customers. *Second,* many of the secure gun storage or firearm safety devices are compatible with numerous firearms. Therefore, one secure gun storage or safety device will be able satisfy the requirement for all firearms that are compatible with that secure gun storage or safety device. *Third,* because safety devices, such as trigger locks and cable locks, are commodities that police departments provide free or the cost of which ranges from less than $1 up to $10, a licensee might be able to enter into an agreement with those departments pursuant to which local law enforcement would provide the devices free of charge on the licensee's premises. *Finally,* manufacturers may choose to package compatible safety devices along with new handgun and long gun offerings. Such integrated packaging relieves the federal firearms licensee from the cost of providing safety devices for those firearms. These four factors, which ATF cannot measure with precision, may affect the number of secure gun storage or safety devices that an individual licensee must supply and the overall costs to licensees of purchasing the required devices.

The overall benefit of the secure gun storage or safety devices requirement is to provide firearm purchasers with the ability to acquire a device that will allow them to safely secure their firearms from unlawful use or accidental discharge.

The economic effects associated with amending the definition of the term "antique firearm" will result in a cost savings to the licensee and ATF. Federal firearms licensees are no longer required to expend resources to record transactions of any firearm meeting the amended definition of an antique firearm contained in this proposed rule, because antique firearms are not regulated by ATF. Since ATF does not collect any data regarding these firearms transactions, and federal firearms licensees are not required to keep records of these firearms, ATF is unable to measure the cost impact of amending the definition of antique firearms except to indicate that licensees will no longer be required to keep records on the antique firearms that meet the definition. Additionally, the amendments to the definitions reflect the definitions currently codified in the statute. Since the enactment of Public Law 105–277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 on October 21, 1998, federal firearms licensees have followed these amended statutory definitions and no additional economic change or impact will result from these amendments to the regulations.

There are no costs associated with the proposed amendments to the definitions of the terms "rifle" and "shotgun" as these are technical amendments that integrate statutory language, which have no associated costs, into the regulations.

### *B. Executive Order 13132*

This proposed rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, "Federalism," the Attorney General has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### *C. Executive Order 12988*

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform."

### *D. Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 605(b), requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General has reviewed this proposed rule and, by approving it, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

The economic effects associated with this proposed rule are attributable to statutory requirements that went into effect in 1999, that applicants for federal firearms licenses must certify that, with certain exceptions, secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensees. The proposed rule does not impose additional costs or burden on the licensed dealer beyond what is already required by statute. However, the proposed rule would extend this certification requirement to manufacturers or importers who have premises from which firearms are sold to nonlicensees. The additional costs imposed on these manufacturers and importers is, however, likely to be minimal.

The rule proposes that the licensed dealer, or licensed manufacturer or importer having premises where firearms are sold to nonlicensees, must certify that they will make available firearms secure gun storage or safety devices that will be compatible with each types of firearms that the licensee sells. One measure of the cost of these proposed safety device requirements—requirements that, as noted, already are required by statute for licensed dealers—is the opportunity cost of licensees making secure gun storage and safety devices available instead of not stocking them or stocking other products that might have a higher profit margin or that consumers may prefer. The opportunity cost would be measured as the foregone profit that could be earned by licensees in the absence of the requirement.

ATF lacks data to reliably estimate this opportunity cost. For example, ATF is not aware of any data sources on the number or share of licensees that would not make gun storage or safety devices available absent the statutory requirement, the number and types of gun storage or safety devices that licensees would need to make available in order to comply with the statutory requirement, or the products that licensees would have made available absent the requirement. ATF seeks information from the public on data and methods for estimating the opportunity cost of this requirement.

Although ATF lacks data to reliably estimate the opportunity cost of the safe storage requirement, it is worth noting that a number of factors may affect the number of secure gun storage or safety devices that an individual licensee must supply on his premises and the overall cost to licensees of purchasing the required devices. *First,* dealers, manufacturers, and importers may be able to recover the cost of purchasing secure gun storage or safety devices through the sale of those products to their customers. *Second,* many of the secure gun storage or firearm safety devices are compatible with numerous firearms. Therefore, one secure gun storage or safety device will be able satisfy the requirement for all firearms that are compatible with that secure gun storage or safety device. *Third,* because safety devices, such as trigger locks and cable locks, are commodities that police departments provide free or the cost of which ranges from less than $1 up to $10, a licensee might be able to enter into an agreement with those departments pursuant to which local law enforcement would provide the devices free of charge on the licensee's premises. *Finally,* manufacturers may choose to package compatible safety devices along with new handgun and long gun offerings. Such integrated packaging relieves the federal firearms licensee from the cost of providing safety devices for those firearms. These four factors, which ATF cannot measure with precision, may affect the number of secure gun storage or safety devices that an individual licensee must supply and the overall costs to the licensee of purchasing the required devices.

The overall benefit of the secure gun storage or safety devices requirement is to provide firearms purchasers with the ability to acquire a device that will allow them to safely secure their firearms from unlawful use or accidental discharge.

The economic effects associated with amending the definition of the term "antique firearm" will result in a cost savings to the licensee and ATF. Federal firearms licensees are no longer required to expend resources to record transactions of any firearm meeting the amended definition of an antique firearm contained in this proposed rule, because such firearms are not regulated by ATF. Since ATF does not collect any data regarding these firearm transactions, federal firearms licensees are not required to keep records of these firearms, ATF is unable to measure the cost impact of amending the definition of antique firearms except to indicate that licensees will no longer be required to keep records on the antique firearms that meet the definition. Additionally, the amendments to the definitions reflect the definitions currently codified in the statute. Since the enactment of Public Law 105–277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 on October 21, 1998, federal firearms licensees have followed these amended statutory definitions and no additional economic change or impact will result from these amendments to the regulations.

There are no costs associated with the proposed amendments to the definitions of the terms "rifle" and "shotgun" as these are technical amendments that integrate statutory language, which have no associated costs, into the regulations.

### *E. Small Business Regulatory Enforcement Fairness Act of 1996*

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This proposed rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

### *F. Unfunded Mandates Reform Act of 1995*

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### *G. Paperwork Reduction Act of 1995*

This proposed rule would revise an existing reporting requirement under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320. The proposed rule provides that an applicant for a federal firearms dealer license, or an applicant for a federal firearms importer or manufacture license who will be engaged in business on the licensed premises as a dealer in the same type of firearms authorized by the license to import or manufacture, must certify on ATF Form 7 (5310.12), Application for Federal Firearms License, that compatible secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees.

The proposed rule modifies ATF Form 7 by amending Item 27 to include the word "compatible" in front of the phrase "secure gun storage" in the certification. This edit does not change or alter the burden or recordkeeping requirements associated with ATF Form 7. The burden and respondent information associated with the certification of secure storage and safety devices have already been accounted for with respect to ATF Form 7, and were approved by the Office of Management and Budget under control number 1140–0018.

## Public Participation

### *A. Comments Sought*

ATF is requesting comments on the proposed rule from all interested persons. ATF is also specifically requesting comments on the clarity of this proposed rule and how it may be made easier to understand.

In addition, ATF requests comments regarding the extent to which this proposed rule will result in any new costs to the public, and what benefits may be realized.

All comments must reference this document docket number (ATF 24P), be legible, and include your name and mailing address. ATF will treat all comments as originals and will not acknowledge receipt of comments.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

### *B. Confidentiality*

Comments, whether submitted electronically or on paper, will be made available for public viewing at ATF, and on the Internet as part of the eRulemaking initiative, and are subject to the Freedom of Information Act. Commenters who do not want their name or other personal identifying information posted on the Internet should submit their comment by mail or facsimile, along with a separate cover sheet that contains their personal identifying information. Both the cover sheet and comment must reference this docket number. Information contained in the cover sheet will not be posted on the Internet. Any personal identifying information that appears within the comment will be posted on the Internet and will not be redacted by ATF.

Any material that the commenter considers to be inappropriate for disclosure to the public, but is not confidential under law, should not be included in the comment. Any person submitting a comment shall specifically designate that portion (if any) of his comments that contains material that is confidential under law (*e.g.,* trade secrets, processes, etc.). Any portion of a comment that is confidential under law shall be set forth on pages separate from the balance of the comment and shall be prominently marked "confidential" at the top of each page. Confidential information will be included in the rulemaking record but will not be disclosed to the public. Any comments containing material that is not confidential under law may be disclosed to the public. In any event, the name of the person submitting a comment is not exempt from disclosure.

### *C. Submitting Comments*

Comments may be submitted in any of three ways:

- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments may be of any length and must appear in a minimum 12-point font type (0.17 inches), include your complete mailing address, and be signed.
- *Facsimile:* You may submit comments by facsimile transmission to (202) 648–9741. Faxed comments must:

(1) Be legible and appear in a minimum 12-point font type (0.17 inches);

(2) Be on 8½″ x 11″ paper;

(3) Contain a legible, written signature; and

(4) Be no more than five pages long. ATF will not accept faxed comments that exceed five pages.

- *Federal eRulemaking Portal:* To submit comments to ATF via the Federal eRulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

### *D. Request for Hearing*

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director of ATF within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

## Disclosure

Copies of this proposed rule and the comments received will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E–062, 99 New

York Avenue NE., Washington, DC 20226; telephone: (202) 648–8740.

### Drafting Information

The author of this document is George M. Fodor, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

### List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Customs duties and inspection, Exports, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, and Transportation.

### Authority and Issuance

Accordingly, for the reasons discussed in the preamble, 27 CFR part 478 is proposed to be amended as follows:

## PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for 27 CFR part 478 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Amend § 478.11 as follows:

■ a. Remove the words "the explosive in a fixed metallic cartridge" in the definition of "Rifle" and add in their place "an explosive";

■ b. Remove the words "the explosive in a fixed shotgun shell" in the definition of "Shotgun" and add in their place "an explosive"; and

■ c. Revise the definition of "Antique firearm" and add a definition for the term "Secure gun storage or safety device", to read as follows:

### § 478.11 Meaning of terms.

* * * * *

*Antique firearm.* (a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

(b) Any replica of any firearm described in paragraph (a) of this definition if such replica—

(1) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(2) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade; or

(c) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this paragraph (c), the term "antique firearm" does not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle loading weapon, or any muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

* * * * *

*Secure gun storage or safety device.* (a) A device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(b) A device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(c) A safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

* * * * *

■ 3. Amend § 478.73 by adding a sentence after the first sentence in paragraph (a) to read as follows:

### § 478.73 Notice of revocation, suspension, or imposition of civil fine.

(a) *Basis for action.* * * * In addition, a notice of revocation of the license, ATF Form 4500, may be issued whenever the Director has reason to believe that a licensee fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee). * * *

* * * * *

■ 4. Add § 478.104 to subpart F to read as follows:

### § 478.104 Secure gun storage or safety device.

(a) Any person who applies to be a licensed firearms dealer must certify on ATF Form 7 (5310.12), Application for Federal Firearms License, that compatible secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensed individuals (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty, loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered in violation of the requirement to make available such a device).

(b) Any person who applies to be a licensed firearms importer or a licensed manufacturer and will be engaged in business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured must make the certification required under paragraph (a) of this section.

(c) Each licensee described in this section must have compatible secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees. However, such licensee shall not be considered to be in violation of this requirement if a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee.

Dated: May 17, 2016.

**Loretta E. Lynch,**

*Attorney General.*

[FR Doc. 2016–12364 Filed 5–25–16; 8:45 am]

BILLING CODE 4410–FY–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R01–OAR–2015–0801; A–1–FRL–9946–93–Region 1]**

# Air Plan Approval; ME; Control of Volatile Organic Compound Emissions From Fiberglass Boat Manufacturing and Surface Coating Facilities

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions establish Reasonably Available Control Technology (RACT) requirements for reducing volatile organic compound (VOC) emissions from fiberglass boat manufacturing and surface coating operations. The intended effect of this action is to approve these requirements into the Maine SIP. This action is being

taken in accordance with the Clean Air Act.

**DATES:** Written comments must be received on or before June 27, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R01–OAR–2015–0801 at *http://www.regulations.gov,* or via email to *Mackintosh.David@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** David L. Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100 (Mail code OEP05–2), Boston, MA 02109–3912, tel. 617–918–1584, fax 617–918–0668, email *Mackintosh.David@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: May 11, 2016.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

[FR Doc. 2016–12397 Filed 5–25–16; 8:45 am]

BILLING CODE 6560–50–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

[Docket No. 160411325–6325–01]

RIN 0648–XE568

## Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes to implement annual management measures and harvest specifications to establish the allowable catch levels (*i.e.* annual catch limit (ACL)/harvest guideline (HG)) for the northern subpopulation of Pacific sardine (hereafter, simply Pacific sardine), in the U.S. Exclusive Economic Zone (EEZ) off the Pacific coast for the fishing season of July 1, 2016, through June 30, 2017. This rule is proposed according to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The proposed action would prohibit directed non-tribal Pacific sardine commercial fishing for Pacific sardine off the coasts of Washington, Oregon and California, which is required because the estimated 2016 biomass of Pacific sardine has dropped below the biomass threshold specified in the HG control rule. Under the proposed action, Pacific sardine may still be harvested as part of either the live bait or tribal fishery or as incidental catch in other fisheries; the incidental harvest of Pacific sardine would initially be limited to 40-percent by weight of all fish per trip when caught with other CPS or up to 2 metric tons (mt) when caught with non-CPS. The proposed annual catch limit (ACL) for the 2016–2017 Pacific sardine fishing year is 8,000 mt. This proposed rule is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

**DATES:** Comments must be received by June 10, 2016.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2016–0052, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0052,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; Attn: Joshua Lindsay.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the report "Assessment of Pacific Sardine Resource in 2016 for U.S.A. Management in 2016–2017" may be obtained from the West Coast Region (see **ADDRESSES**).

**FOR FURTHER INFORMATION CONTACT:** Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034, *joshua.lindsay@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** During public meetings each year, the estimated biomass for Pacific sardine is presented to the Pacific Fishery Management Council's (Council) CPS Management Team (Team), the Council's CPS Advisory Subpanel (Subpanel) and the Council's Scientific and Statistical Committee (SSC), and the biomass and the status of the fishery are reviewed and discussed. The biomass estimate is then presented to the Council along with the calculated overfishing limit (OFL), available biological catch (ABC), and HG, along with recommendations and comments from the Team, Subpanel, and SSC. Following review by the Council and after hearing public comment, the Council adopts a biomass estimate and makes its catch level recommendations to NMFS. NMFS manages the Pacific sardine fishery in the U.S. EEZ off the Pacific coast (California, Oregon, and Washington) in accordance with the FMP. Annual specifications published in the **Federal Register** establish the allowable harvest levels (*i.e.* OFL/ACL/HG) for each Pacific sardine fishing year. The purpose of this proposed rule is to implement these annual catch reference points for 2016–2017, including the OFL and an ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine. The FMP and its implementing regulations require NMFS to set these annual catch levels for the Pacific sardine fishery based on the annual specification framework and control rules in the FMP. These control rules include the HG control rule, which, in conjunction with the OFL and ABC rules in the FMP, are used to manage harvest levels for Pacific sardine, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* According to the FMP, the quota for the principal commercial fishery is determined using the FMP-specified HG formula. The HG formula in the CPS FMP is HG = [(Biomass – CUTOFF) * FRACTION * DISTRIBUTION] with the parameters described as follows:

1. *Biomass.* The estimated stock biomass of Pacific sardine age one and above. For the 2016–2017 management season this is 106,137 mt.
2. *CUTOFF.* This is the biomass level below which no HG is set. The FMP established this level at 150,000 mt.
3. *DISTRIBUTION.* The average portion of the Pacific sardine biomass estimated in the EEZ off the Pacific coast is 87 percent.
4. *FRACTION.* The temperature-varying harvest fraction is the percentage of the biomass above 150,000 mt that may be harvested.

As described above, the Pacific sardine HG control rule, the primary mechanism for setting the annual directed commercial fishery quota, includes a CUTOFF parameter which has been set as a biomass level of 150,000 mt. This amount is subtracted from the annual biomass estimate before calculating the applicable HG for the fishing year. Therefore, because this year's biomass estimate is below that value, the formula results in an HG of zero and therefore no Pacific sardine are available for the commercial directed fishery during the 2016–2017 fishing season.

At the April 2016 Council meeting, the Council's SSC approved, and the Council adopted, the "Assessment of the Pacific Sardine Resource in 2016 for U.S.A. Management in 2016–2017", completed by NMFS Southwest Fisheries Science Center and the resulting Pacific sardine biomass estimate of 106,137 mt as the best available science for setting harvest specifications. Based on recommendations from its SSC and other advisory bodies, the Council recommended, and NMFS is proposing, an OFL of 23,085 mt, an ABC of 19,236 mt, and a prohibition on sardine catch unless it is harvested as part of either the live bait or tribal fishery or incidental to other fisheries for the 2016–2017 Pacific sardine fishing year. As additional management measures, the Council also recommended, and NMFS is proposing, an ACL of 8,000 mt and that the incidental catch of Pacific sardine in other CPS fisheries be managed with the following automatic inseason actions to reduce the potential for both targeting and discard of Pacific sardine:

- An incidental per landing by weight allowance of 40 percent Pacific sardine in non-treaty CPS fisheries until a total of 2,000 mt of Pacific sardine are landed.
- When 2,000 mt are landed, the incidental per landing allowance would be reduced to 30 percent until a total of 5,000 mt of Pacific sardine have been landed.
- When 5,000 mt have been landed, the incidental per landing allowance would be reduced to 10 percent for the remainder of the 2016–2017 fishing year.

Because Pacific sardine is known to comingle with other CPS stocks, these incidental allowances are proposed to allow for the continued prosecution of these other important CPS fisheries and reduce the potential discard of sardine. Additionally, a 2 mt incidental per landing allowance in non-CPS fisheries is proposed.

The NMFS West Coast Regional Administrator would publish a notice in the **Federal Register** announcing the date of attainment of any of the incidental catch levels described above and subsequent changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will also make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

In the previous 4 fishing years the Quinault Indian Nation requested, and NMFS approved, set-asides for the exclusive right to harvest Pacific sardine in the Quinault Usual and Accustomed Fishing Area off the coast of Washington State, pursuant to the 1856 Treaty of Olympia (Treaty with the Quinault). For the 2016–2017 fishing season the Quinault Indian Nation has requested that NMFS provide a set-aside of 800 mt (1,000 mt less than was requested and approved in 2015–2016) and NMFS is considering the request.

Detailed information on the fishery and the stock assessment are found in the report "Assessment of the Pacific Sardine Resource in 2016 for U.S.A. Management in 2016–2017" (see **ADDRESSES**).

## Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866 because they contain no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, for the following reasons:

On June 12, 2014, the Small Business Administration (SBA) issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467). The rule increased the size standard for Finfish Fishing from $19.0 to 20.5 million, Shellfish Fishing from $5.0 to 5.5 million, and Other Marine Fishing from $7.0 to 7.5 million. 78 FR 33656, 33660, 33666 (See Table 1). NMFS conducted an economic analysis for this action in light of the new size standards.

The purpose of this proposed rule is to conserve the Pacific sardine stock by preventing overfishing, so that directed fishing may occur in future years. This will be accomplished by implementing the 2016–2017 annual specifications for Pacific sardine in the U.S. EEZ off the Pacific coast. The small entities that would be affected by the proposed action are the vessels that fish for Pacific sardine as part of the West Coast CPS small purse seine fleet. As stated above, the U.S. Small Business Administration now defines small businesses engaged in finfish fishing as those vessels with annual revenues of $20.5 million or less. Under the former, lower standards, all entities subject to this action in previous years were considered small entities, and under the new standards they continue to be considered small. In 2015, there were approximately 81 vessels permitted to operate in the directed sardine fishery component of the CPS fishery off the U.S. West Coast; 58 vessels in the Federal CPS limited entry fishery off California (south of 39 N. lat.), and a combined 23 vessels in Oregon and Washington's state Pacific sardine fisheries. The total ex-vessel revenue from the harvest of CPS finfish in 2015 was approximately $4.7 million, making the average annual per vessel revenue in 2015 for the West Coast CPS finfish fleet well below $20.5 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this proposed rule has an equal effect on all of these small entities and will impact a substantial number of these small entities in the same manner. Therefore, this rule would not create disproportionate costs between small and large vessels/businesses.

The CPS FMP and its implementing regulations require NMFS to annually set an OFL, ABC, ACL and HG or ACT for the Pacific sardine fishery based on the specified harvest control rules in the FMP applied to the current stock biomass estimate for that year. The derived annual HG is the level typically used to manage the principal commercial sardine fishery and is the harvest level typically used by NMFS for profitability analysis each year. As stated above, the FMP dictates that when the estimated biomass drops below a certain level (150,000 mt) there is no HG. Therefore, for the purposes of profitability analysis, this action is essentially proposing an HG of zero for the 2016–2017 Pacific sardine fishing season (July 1, 2016 through June 30, 2017). The estimated biomass used for management during the preceding fishing year (2015–2016) was also below 150,000 mt, therefore NMFS did not implement a HG, thereby disallowing a commercial directed sardine fishery. Since there is again no directed fishing for the 2016–2017 fishing year, this proposed rule will not change the potential profitability as compared to the previous fishing year.

The revenue derived from harvesting Pacific sardine is typically only one source of fishing revenue for many of the vessels that harvest Pacific sardine; as a result, the economic impact to the fleet from the proposed action cannot be viewed in isolation. From year to year, depending on market conditions and availability of fish, most CPS/sardine vessels supplement their income by harvesting other species. Many vessels in California also harvest anchovy, mackerel, and in particular squid, making Pacific sardine only one component of a multi-species CPS fishery. Additionally, some sardine vessels that operate off of Oregon and Washington also fish for salmon in Alaska or squid in California during times of the year when sardine are not available. The purpose of the proposed incidental allowances under this action are to ensure the vessels impacted by this sardine action can still access these other profitable fisheries while still limiting the harvest of sardine. These proposed incidental allowances are similar to those implemented last year and should not restrict access to those other fisheries.

CPS vessels typically rely on multiple species for profitability because abundance of sardine, like the other CPS stocks, is highly associated with ocean conditions and seasonality, and therefore are harvested at various times and areas throughout the year. Because each species responds to ocean conditions in its own way, not all CPS stocks are likely to be abundant at the same time; therefore, as abundance levels and markets fluctuate, it has necessitated that the CPS fishery as a whole rely on a group of species for its annual revenues.

Pursuant to the Regulatory Flexibility Act and the SBA's June 20, 2013, and June 14, 2014, final rules (78 FR 37398 and 79 FR 33647, respectively), this certification was developed for this action using the SBA's revised size standards. NMFS considers all entities subject to this action to be small entities as defined by both the former, lower size standards and the revised size standards. Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

This action does not contain a collection-of-information requirement for purposes of the Paper Reduction Act.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 19, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2016–12228 Filed 5–25–16; 8:45 am]

BILLING CODE 3510–22–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

## RIN 0648–BF84

## Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Trawl Fisheries; Amendment 103

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council has submitted Amendment 103 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). If approved, Amendment 103 would allow NMFS to reapportion unused Chinook salmon prohibited species catch (PSC) within and among specific trawl sectors in the Central and Western Gulf of Alaska (GOA), based on specific criteria and within specified limits. Amendment 103 would not increase the current combined annual PSC limit of 32,500 Chinook salmon that applies to Central and Western GOA trawl sectors under the FMP. Amendment 103 would provide for more flexible management of GOA trawl Chinook salmon PSC, increase the likelihood that groundfish resources are more fully harvested, reduce the potential for fishery closures, and maintain overall Chinook salmon PSC use in the Central and Western GOA within limits established under the FMP. Amendment 103 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be received on or before July 25, 2016.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2016–0023 by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0023,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (collectively, Analysis) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jeff Hartman, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries in the Exclusive Economic Zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq.*). Regulations implementing the FMP appear at 50 CFR 679.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 103 to the FMP is available for public review and comment.

Amendment 103 would apply to federally permitted vessels fishing for pollock and non-pollock groundfish (non-pollock trawl fisheries) with trawl gear in the Central and Western Reporting Areas of the GOA (Central and Western GOA). The Western and Central Reporting Areas, defined at § 679.2 and shown in Figure 3 to 50 CFR part 679, consist of the Central and Western Regulatory Areas in the EEZ (Statistical Areas 610, 620, and 630) and the adjacent waters of the State of Alaska (0 to 3 nm).

The Council designated Pacific salmon and several other species (Pacific halibut Pacific herring, steelhead trout, king crab, and Tanner crab) as prohibited species in the Gulf of Alaska (Section 3.6.1 of the FMP). Prohibited species catch are species taken incidentally in the groundfish trawl fisheries designated "prohibited species" because they are targets of other, fully utilized domestic fisheries. If approved, Amendment 103 would (1) establish the authority for NMFS to reapportion a limited amount of unused Chinook salmon PSC among Central and Western GOA trawl catcher vessel (CV) sectors and from the Trawl catcher/processor (C/P) sector to trawl CV sectors; (2) exclude the Trawl C/P sector from receiving a reapportionment of Chinook salmon PSC from any other sector; and (3) provide additional flexibility to adjust fall reapportionments of Chinook salmon PSC from the current mandatory sector reapportionments.

NMFS has implemented two FMP amendments to limit Chinook salmon bycatch in the GOA trawl fisheries to an annual aggregate amount of 32,500 Chinook salmon PSC. In August 2012, NMFS implemented Amendment 93 to the FMP to establish separate Chinook salmon PSC limits for the directed pollock trawl fisheries in the Central GOA and Western GOA (77 FR 42629, July 20, 2012). These limits require NMFS to close the directed pollock fishery in the Central GOA or Western GOA if the applicable PSC limit is reached. Since Amendment 93 was implemented, the directed pollock fishery has not been closed due to reaching a Chinook salmon PSC limit, and in some years nearly half of the annual Central or Western GOA PSC limit is unused.

In January 2015, NMFS implemented Amendment 97 to the FMP (79 FR 71350, December 2, 2014) to establish Chinook salmon PSC limits for non-pollock trawl fisheries in the Central and Western GOA. Non-pollock trawl fisheries in the Central and Western GOA include fisheries for sablefish, several rockfish species, arrowtooth flounder, Pacific cod, shallow-water flatfish, rex sole, flathead sole, deep-water flatfish, and other groundfish except pollock. Many of the non-pollock trawl fisheries are multi-species fisheries, in that vessels catch and retain multiple groundfish species in a single fishing trip. Any of these non-pollock trawl fisheries may be closed when the applicable Chinook salmon PSC limit is reached.

Amendment 97 established separate annual Chinook salmon PSC limits for three non-pollock trawl sectors: 3,600 Chinook salmon for the Trawl C/P sector; 1,200 Chinook salmon for the Rockfish Program CV sector; and 2,700 Chinook salmon for the Non-Rockfish Program CV sector. Amendment 97 implemented a seasonal limit on Chinook salmon PSC for the Trawl C/P sector, an October and November reapportionment of Chinook salmon PSC between Rockfish Program and Non-Rockfish Program CV sectors, and an "incentive buffer." The incentive buffer for the Trawl C/P and Non-Rockfish Program CV sectors allows each sector to increase its annual Chinook salmon PSC limit if the amount of Chinook salmon PSC taken in the sector in the previous year is less than a specified amount of the sector's limit.

In December 2015, the Council proposed Amendment 103 to allow more flexible reapportionments of unused Chinook salmon PSC. Amendment 103 would amend Section 3.6.2.2 and add Section 3.6.2.2.1 of the FMP, and make minor editorial revisions to the Table of Contents, the Executive Summary, and Appendix A of the FMP to list and describe Amendment 103.

Amendment 103 would amend Table ES–2, Prohibited Species Catch (PSC) Limits, by adding the authority for NMFS to reapportion unused Chinook salmon PSC among Central and Western GOA trawl CV sectors and from the Trawl C/P sector to trawl CV sectors. Amendment 103 would add Section 3.6.2.2.1 to specify the maximum amount of unused Chinook salmon PSC that NMFS may reapportion from any pollock fishery or non-pollock trawl sector PSC limit to catcher vessels participating in the directed pollock fishery and non-pollock trawl catcher vessel sectors. Amendment 103 would amend Section 3.6.2.2 of the FMP to provide NMFS (the Regional Administrator of NMFS) discretion to annually reapportion the amount that is in excess of 150 Chinook salmon that currently must be reapportioned from the Rockfish Program CV sector to the Non-Rockfish Program CV sector, or the amount that may be apportioned from and to these same two sectors after November 15.

Amendment 103 would limit the amount of Chinook salmon PSC that may be received by a fishery or sector to 50 percent of that sector's annual Chinook salmon PSC limit. As such, reapportionments of unused Chinook salmon PSC would be limited to the following amounts:

- 3,342 Chinook salmon to the Western GOA pollock sector;
- 9,158 Chinook salmon to the Central GOA pollock sector;
- 600 Chinook salmon to the Rockfish Program CV sector;
- 1,350 Chinook salmon to the Non-Rockfish Program CV sector; or
- No Chinook salmon to the Trawl C/P sector

Amendment 103 would also increase NMFS' flexibility to reapportion the October and November Chinook salmon PSC from the Rockfish Program CV sector to the Non-Rockfish Program CV sector. If more than 150 Chinook salmon PSC are available to the Rockfish Program CV sector on October 1, NMFS would be authorized to reapportion Chinook salmon PSC to the Non-Rockfish Program CV sector as long as at least 150 Chinook salmon PSC remains available to the Rockfish Program CV sector on that date. Amendment 103 also provides that on November 15, NMFS may reapportion to the Non-Rockfish Program CV sector, any Chinook salmon PSC that remains available to the Rockfish Program CV sector on that date.

The Council recommended Amendment 103 because flexibility to reapportionment has been a successful tool for managing allocations and PSC limits in other fisheries. The Analysis for Amendment 103 indicates that allowing NMFS to reapportion the above listed amounts of Chinook salmon PSC among the GOA pollock and non-pollock fisheries could prevent or limit fishery closures. Amendment 103 would (1) increase the likelihood that groundfish resources will be more fully harvested; (2) minimize adverse socioeconomic impacts of fishery closures on groundfish harvesters, processors and communities; (3) ensure that the GOA trawl fisheries stay within existing PSC limits implemented by Amendments 93 and 97; and (4) balance competing interests of the National Standards.

Amendment 103 would improve the opportunities for NMFS to make unused Chinook salmon PSC available to a fishery or sector based on need and availability. The additional opportunity may prevent sectors from reaching their respective Chinook salmon PSC limits and therefore reduce fishery closures. Because there is a lower probability of a closure, there is greater chance of harvesting the TAC and reducing the frequency of adverse socioeconomic effects of fishery closures. The reliable supply of groundfish may decrease the likelihood that harvesters, processors, and communities are adversely affected by fishery closures.

Amendment 103 minimizes bycatch to the extent practicable because it (1) does not authorize any increase to the current combined annual PSC limit of 32,500 Chinook salmon; (2) provides a continuing incentive for participants in the trawl fisheries to minimize bycatch of Chinook PSC because it would be uncertain whether or when NMFS would reapportion Chinook salmon PSC; and (3) does not alter the incentives under Amendment 97 (such as the annual incentive buffer) that encourage non-pollock trawl sectors to minimize Chinook salmon PSC use.

NMFS is soliciting public comments on proposed Amendment 103 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that implements Amendment 103 following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. NMFS will consider all comments received by the end of the comment period on Amendment 103, whether specifically directed to the FMP amendment or the proposed rule, in the FMP amendment approval/disapproval decision. NMFS will not consider comments received after the date in the approval/disapproval decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 23, 2016.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2016–12467 Filed 5–25–16; 8:45 am]

BILLING CODE 3510–22–P

# Notices

**Federal Register**
Vol. 81, No. 102
Thursday, May 26, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

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## DEPARTMENT OF AGRICULTURE

## Agricultural Research Service

### Notice of Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Terra Blue, Inc. of Clinton, North Carolina, an exclusive license to U.S. Patent No. 8,445,253, "High Performance Nitrifying Sludge for High Ammonium Concentration and Low Temperature Wastewater Treatment," issued on May 21, 2013 and U.S. Patent Serial No. 13/742,542, "High Performance Nitrifying Sludge for High Ammonium Concentration and Low Temperature Wastewater Treatment," filed on January 16, 2013.

**DATES:** Comments must be received on or before June 27, 2016.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

**FOR FURTHER INFORMATION CONTACT:** Mojdeh Bahar of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

**SUPPLEMENTARY INFORMATION:** The Federal Government's patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as Terra Blue, Inc. of Clinton, North Carolina, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Mojdeh Bahar,**
*Assistant Administrator.*

[FR Doc. 2016–12460 Filed 5–25–16; 8:45 am]

BILLING CODE 3410–03–P

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## DEPARTMENT OF AGRICULTURE

## Agricultural Research Service

### Notice of Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Children's National Medical Center of Washington, District of Columbia, an exclusive license to U.S. Patent No. 8,641,960, "Solution Blow Spinning," issued on February 4, 2014.

**DATES:** Comments must be received on or before June 27, 2016.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

**FOR FURTHER INFORMATION CONTACT:** Mojdeh Bahar of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

**SUPPLEMENTARY INFORMATION:** The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Children's National Medical Center of Washington, District of Columbia, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Mojdeh Bahar,**
*Assistant Administrator.*

[FR Doc. 2016–12490 Filed 5–25–16; 8:45 am]

BILLING CODE 3410–03–P

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## DEPARTMENT OF AGRICULTURE

## Agricultural Research Service

### Notice of Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Barenbrug USA of Tangent, Oregon, an exclusive license to the variety of smooth bromegrass described in Plant Variety Protection Certificate Application Number 201500221, "Artillery", filed on December 17, 2014.

**DATES:** Comments must be received on or before June 27, 2016.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

**FOR FURTHER INFORMATION CONTACT:** Mojdeh Bahar of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

**SUPPLEMENTARY INFORMATION:** The Federal Government's rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this plant variety as Barenbrug USA of Tangent, Oregon has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Mojdeh Bahar,**

*Assistant Administrator.*

[FR Doc. 2016–12492 Filed 5–25–16; 8:45 am]

BILLING CODE 3410–03–P

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Submission for OMB Review; Comment Request

May 20, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 27, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Food and Nutrition Service**

*Title:* 7 CFR part 235—State Administrative Expense Funds.

*OMB Control Number:* 0584–0067.

*Summary of Collection:* The authority for this collection is provided for in Sections 7 and 10 of the Child Nutrition Act of 1966, 80 Stat. 888, 889, as amended (42 U.S.C. 1776, 1779). As required, Food and Nutrition Service (FNS) issued regulations in 7 CFR part 235, which prescribes the methods for making payments of funds to State agencies to use for administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the National School Lunch Program (NSLP) (7 CFR part 210), the Special Milk Program (SMP) (7 CFR part 215), the School Breakfast Program (SBP) (7 CFR part 220), the Child and Adult Care Food Program (CACFP) (7 CFR part 226), and the Food Distribution Program (FDP) (7 CFR part 250).

*Need and Use of the Information:* Under this information collection, FNS collects the information necessary for making payments for funds to State agencies to use for the administrative expenses incurred in supervising and giving technical assistance in connection with the activities undertaken by the State agency under NSLP, SMP, SBP, CACFP, and the FDP. The Federal regulations in 7 CFR part 235 SAE Funds require the collection of information associated with this collection. This information is collected through written agreements that cover the operation of the Program during a specified period; State Administrative Expense plans that outline funding and activities; State Administrative Expense Funds Reallocation Reports that describe the use of SAE funds; and annual reports containing information on School Food Authorities (SFAs) under agreement with the State agency to participate in the National School Lunch or Commodity School Programs.

*Description of Respondents:* State, Local, or Tribal Government.

*Number of Respondents:* 84.

*Frequency of Responses:* Recordkeeping; Reporting: Quarterly and Annually.

*Total Burden Hours:* 6,631.

*Title:* Senior Farmers' Market Nutrition Program (SFMNP).

*OMB Control Number:* 0584–0541.

*Summary of Collection:* Section 4203 of the Agricultural Act of 2014 (Pub. L. 113–79) reauthorized the Senior Farmers' Market Nutrition Program (SFMNP) through fiscal year 2018; a prior law (the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171)) gave the Department of Agriculture the authority to promulgate regulations for the operation and administration of the SFMNP. These regulations are published at 7 CFR part 249. The purposes of the SFMNP are to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, honey and herbs from farmers' markets, roadside stands, and community supported agriculture (CSA) programs to low income seniors; to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and CSA programs; and to develop or aid in the development of new and additional farmers' markets, roadside stands, and CSA programs.

*Need and Use of the Information:* The SFMNP financial and program information is collected on FNS Form FNS–683a, "Senior Farmers' Market Nutrition Program (SFMNP) Annual Financial and Program Data Report" and is submitted annually to the Food and Nutrition Service (FNS) by participating SFMNP State agencies. This information is used to reconcile and close out grants in accordance with the requirements of 7 CFR 3016.23(b) and 7 CFR 3016.41(a)(1). FNS collects information to assess how each State agency operates and to ensure the accountability of State agencies, local agencies, and authorized farmers/farmers' markets, roadside stands, and CSA programs in administering the SFMNP. Program information is also used by FNS for program planning purposes, and for reporting to Congress as needed.

*Description of Respondents:* State, Local, or Tribal Government; Individuals/households; Farms, Business or other for-profit; and Not-for-profit institutions.

*Number of Respondents:* 804,714.

*Frequency of Responses:* Recordkeeping; Reporting: Annually.

*Total Burden Hours:* 421,920.

*Title:* Follow Up to An Assessment of the Roles and Effectiveness of Community-based Organizations in the Supplemental Nutrition Assistance Program (SNAP).

*OMB Control Number:* 0584–0578.

*Summary of Collection:* State and local SNAP offices are partnering with Community Based-Organizations (CBOs) that have the capacity to provide application assistance and conduct applicant interviews for SNAP participants across five States. FNS has approved these partnerships as part of a demonstration of "Community Partner Interviewer Projects." In 2015, FNS released a report that assessed whether the use of CBOs to conduct SNAP applicant interviews had an impact on

SNAP program performance. Specific program outcomes included efficiency, payment accuracy and client satisfaction. FNS has extended the demonstration projects, and to further assess the impact of these SNAP–CBO partnerships on SNAP program outcomes, FNS is seeking to collect additional data from the five States and those respondents that are participating in the demonstration.

*Need and Use of the Information:* This revised collection supports the extension of the demonstration projects, to further assess the impact of these SNAP–CBO partnerships on SNAP program outcomes such as efficiency, payment accuracy and client satisfaction surveys. FNS is seeking to collect additional data from the five States, SNAP participants and CBOs that are participating in the demonstration.

The purpose of this information collection is to support research that assesses the roles and effectiveness of approximately 10 CBOs that are serving as representatives of the 5 SNAP State agencies with FNS-approval to implement a Community Partner Interview demonstration.

*Description of Respondents:* 5 State, Local, or Tribal Government; 3,452 Individuals/Households and 10 Business-not-for-profit.

*Number of Respondents:* 3,467.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 558.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2016–12381 Filed 5–25–16; 8:45 am]

BILLING CODE 3410–30–P

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Submission for OMB Review; Comment Request

May 20, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 27, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Food and Nutrition Service**

*Title:* Performance Reporting System, Management Evaluation.

*OMB Control Number:* 0584–0010.

*Summary of Collection:* The purpose of the Performance Reporting System is to ensure that each State agency and project area is operating the Supplemental Nutrition Assistance Program (SNAP) in accordance with the Act, regulations, and the State agency's Plan of Operation. Section 11 of the Food and Nutrition Act (the Act) of 2008 requires that State agencies maintain necessary records to ascertain that SNAP is operating in compliance with the Act and regulations and must make these records available to the Food and Nutrition Service (FNS) for inspection.

*Need and Use of the Information:* FNS will use the information to evaluate state agency operations and to collect information that is necessary to develop solutions to improve the State's administration of SNAP policy and procedures. Each State agency is required to submit one review schedule every one, two, or three years, depending on the project areas make-up of the state.

*Description of Respondents:* State, Local, or Tribal Government.

*Number of Respondents:* 53.

*Frequency of Responses:* Recordkeeping; Reporting: Annually.

*Total Burden Hours:* 491,172.

**Food and Nutrition Service**

*Title:* Quality Control Review Schedule.

*OMB Control Number:* 0584–0074.

*Summary of Collection:* State agencies are required to perform Quality Control (QC) reviews for the Supplemental Nutrition Assistance Program (SNAP). In order to determine the accuracy of SNAP benefits authorized by State agencies, a statistical sample of SNAP cases is selected for review from each State agency. Relevant information from the case record, investigative work and documentation about individual cases is recorded on the form FNS–380, Worksheet for SNAP Quality Control Reviews.

The purpose is for State agencies to analyze each household case record including planning and carrying out the field investigation; gathering, comparing, analyzing and evaluating the review of data and forwarding selected cases to the Food and Nutrition Service for Federal validation, for the entire caseload.

*Need and Use of the Information:* Form FNS–380, is a SNAP worksheet used to determine eligibility and benefits for households selected for review in the quality control sample of active cases.

*Description of Respondents:* State, Local, or Tribal Government; Individuals/Households.

*Number of Respondents:* 55,120.

*Frequency of Responses:* Reporting; Recordkeeping: Annually.

*Total Burden Hours:* 518,938.81.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2016–12478 Filed 5–25–16; 8:45 am]

BILLING CODE 3410–30–P

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## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

### Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

**AGENCY:** National Agricultural Statistics Service.

**ACTION:** Notice and request for comments.

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**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Nursery Production Survey and the Nursery and Floriculture Chemical Use Survey. Revision to burden hours will be needed due to the discontinuation of the Nursery and Christmas Tree Production Survey and the Nursery and Floriculture Chemical Use Survey, along with minor changes in the size of the target population, and/or questionnaire length for the two remaining surveys (Oregon Nursery Survey and the Oregon Christmas Tree Survey).

**DATES:** Comments on this notice must be received by July 25, 2016 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535–0244, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

**FOR FURTHER INFORMATION CONTACT:** R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Nursery and Christmas Tree Production Survey.

*OMB Control Number:* 0535–0244.

*Expiration Date of Approval:* September 30, 2016.

*Type of Request:* Intent to revise and extend a currently approved information collection for a period of three years.

*Abstract:* The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition, as well as economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture. The Nursery and Floriculture Chemical Use Survey (NFCUS) was created to develop a database of chemicals and cropping practices for this particular industry. The survey was conducted every three years for the reference periods of 2000, 2003, 2006 and 2009. The Nursery and Christmas Tree Production Survey (NCTPS) was conducted in conjunction with the chemical use survey for the years 2000, 2003, and 2006. For the 2009 reference year the Census of Horticulture replaced this survey. The Census of Horticulture (OMB # 0535–0236) is now conducted every five years and has filled the need for nursery production data. With the creation of the NFCUS database and current budget constraints the NFCUS and NCTPS surveys have been discontinued. Historically, the Oregon Nursery Survey and the Oregon Christmas Tree Survey have been conducted under cooperative agreements with the state of Oregon. This information collection package will now only include these two remaining surveys.

**Authority:** These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, (Pub. L. 104–113) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

NASS also complies with OMB Implementation Guidance, "Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)," **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33376.

*Estimate of Burden:* The retirement of the Nursery and Christmas Tree Production Surveys along with the Nursery and Floriculture Chemical Use Survey will reduce the burden estimate by approximately 4,200 hours from the previous approval. Respondent burden for the two remaining surveys will be approximately 900 hours. The questionnaires are estimated to take the respondents approximately 20 to 30 minutes to complete. Publicity materials and the instruction sheet will account for about 5 minutes of additional burden per respondent. Respondents who refuse to complete a survey will be allotted 2 minutes of burden per attempt to collect the data.

*Respondents:* Producers of nursery, greenhouse, and floriculture products.

*Estimated Annual Number of Respondents:* The Oregon Nursery Production Survey and the Oregon Christmas Tree Production Survey have a combined sample size of approximately 1,800.

*Estimated Total Annual Burden on Respondents:* Approximately 900 hours.

*Comments:* Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, May 18, 2016.

**R. Renee Picanso,**

*Associate Administrator.*

[FR Doc. 2016–12493 Filed 5–25–16; 8:45 am]

BILLING CODE 3410–20–P

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## BROADCASTING BOARD OF GOVERNORS

### Sunshine Act Meeting

**TIME AND DATE:** Tuesday, May 24, 2016, 9:30 a.m. EDT.

**PLACE:** Broadcasting Board of Governors, Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

**STATUS:** Notice of Closed Meeting of the Broadcasting Board of Governors.

**MATTERS TO BE CONSIDERED:** At the time and location listed above, the Broadcasting Board of Governors (BBG) will conduct a special telephonic meeting closed to the public pursuant to 5 U.S.C. 552b(c)(9)(B) in order to protect and prevent disclosure of the discussions related to BBG reform legislation, including premature disclosure of a discussion which would be likely to significantly frustrate implementation of a proposed agency action.

In accordance with the Government in the Sunshine Act and BBG policies, the meeting will be recorded and a transcript of the proceedings, subject to the redaction of information protected by 5 U.S.C. 552b(c)(9)(B), will be made available to the public. The publiclyreleasable transcript will be available for download at *www.bbg.gov* promptly per 5 U.S.C. 552b(f).

Information regarding member votes to close the meeting and expected attendees can also be found on the Agency's public Web site.

**CONTACT PERSON FOR MORE INFORMATION:** Persons interested in obtaining more information should contact Oanh Tran at (202) 203–4545.

**Oanh Tran,**

*Director of Board Operations.*

[FR Doc. 2016–12527 Filed 5–24–16; 11:15 am]

**BILLING CODE 8610–01–P**

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## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Order No. 1998]**

### Reorganization of Foreign-Trade Zone 191 Under Alternative Site Framework; Palmdale, California

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

*Whereas,* the City of Palmdale, California, grantee of Foreign-Trade Zone 191, submitted an application to the Board (FTZ Docket B–74–2015, docketed November 5, 2015) for authority to reorganize under the ASF with a service area of a portion of Los Angeles County, California, as described in the application, adjacent to the Los Angeles/Long Beach U.S. Customs and Border Protection port of entry, FTZ 191's existing Sites 1 and 5 would be categorized as magnet sites, existing Site 12 would be categorized as a usage-driven site, acreage would be reduced at Site 1, and Sites 2 through 4 and 6 through 11 would be removed from the zone;

*Whereas,* notice inviting public comment was given in the **Federal Register** (80 FR 69937–69938, November 12, 2015) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

*Now, therefore,* the Board hereby orders:

The application to reorganize FTZ 191 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to an ASF sunset provision for magnet sites that would terminate authority for Site 5 if not activated within five years from the month of approval, and to an ASF sunset provision for usage-driven sites that would terminate authority for Site 12 if no foreign-status merchandise is admitted for a *bona fide* customs purpose within three years from the month of approval.

Signed at Washington, DC, this 13th day of May 2016.

**Paul Piquado,**

*Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2016–12534 Filed 5–25–16; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[B–4–2016]**

### Foreign-Trade Zone (FTZ) 196—Fort Worth, Texas; Authorization of Production Activity; General Electric Transportation (Locomotives, Drill Equipment, Off-Highway Vehicle Wheels, Inverters and Brake Systems), Fort Worth and Haslet, Texas

On January 20, 2016, General Electric Transportation submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facilities within Subzone 196B, in Fort Worth and Haslet, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 5704–5707, February 3, 2016). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring that inputs classified under HTSUS Subheadings 5603.94, 5607.50, 5909.00, 6305.20, 6307.90, 7019.19 and 7019.51 as well as HTSUS Headings 3208 and 3209 be admitted to the subzone in privileged foreign status (19 CFR 146.41) or domestic status (19 CFR 146.43).

Dated: May 29, 2016.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2016–12538 Filed 5–25–16; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–570–979]**

### Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From the People's Republic of China

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Pursuant to section 751(b) of the Tariff Act of 1930, as amended ("the Act"), 19 CFR 351.216, and 19 CFR 351.221(c)(3), the Department of Commerce (the "Department") is initiating, and issuing the preliminary results, of a changed circumstances review of the antidumping duty ("AD") order on crystalline silicon photovoltaic cells, whether or not assembled into modules, ("solar cells") from the People's Republic of China ("PRC") regarding whether Hangzhou Sunny Energy Science and Technology Co., Ltd. ("Hangzhou Sunny") is the successor-in-interest to Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd. ("Hangzhou ZU Sunny"). Based on the information on the record, we preliminarily determine that Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny and, as such, is entitled to Hangzhou ZU Sunny's AD cash deposit rate with respect to entries of subject merchandise. Interested parties are invited to comment on these preliminary results.

**DATES:** Effective May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2769.

**SUPPLEMENTARY INFORMATION:**

#### Background

On December 7, 2012, the Department published the antidumping order on solar cells from the PRC in the **Federal**

**Register.**[1] On April 4, 2016, Hangzhou Sunny requested that the Department initiate an expedited changed circumstances review to determine that Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny for AD purposes.[2] On May 4, 2016, Hangzhou Sunny responded to a supplemental questionnaire issued by the Department on April 29, 2016.[3]

## Scope of the Order

The merchandise covered by the *Order* is crystalline silicon photovoltaic cells, whether or not assembled into modules, subject to certain exceptions.[4] For the full scope of the *Order*, see the accompanying preliminary decision memorandum.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"): 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

## Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an AD order which shows changed circumstances sufficient to warrant a review of the order. In the past, the Department has used changed circumstances reviews to address the applicability of cash deposit rates after there have been changes in the name or structure of a respondent, such as a merger or spinoff ("successor-in-interest," or "successorship," determinations). Thus, consistent with Department practice, the information submitted by Hangzhou Sunny, which includes information regarding a name change, demonstrates changed circumstances sufficient to warrant a review.[5]

Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department is initiating a changed circumstances review to determine whether Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny.

## Preliminary Determination

When it concludes that expedited action is warranted, the Department may publish the notice of initiation and preliminary results for a changed circumstances review concurrently.[6] The Department has combined the notice of initiation and preliminary results in successor-in-interest cases when sufficient documentation has been provided supporting the request.[7] In this instance, because we have determined that the information necessary to support the request is on the record, we find that expedited action is warranted, and are combining the notice of initiation and the notice of preliminary results in accordance with 19 CFR 351.221(c)(3)(ii).

In determining whether one company is the successor to another for purposes of applying the AD law, the Department examines a number of factors including, but not limited to, changes in: (1) Management, (2) production facilities, (3) suppliers, and (4) customer base.[8] While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its resulting operation is essentially the same as that of its predecessor.[9] Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.[10]

In its April 4, 2016 CCR Request and its May 4, 2016 Supplemental Response, Hangzhou Sunny provided evidence for us to preliminarily determine that it is the successor-in-interest to Hangzhou ZU Sunny. Specifically, Hangzhou Sunny demonstrated that it is essentially the same as Hangzhou ZU Sunny despite some changes to its predecessor's management, the production facility, suppliers, or the customer base following the name change.[11]

According to the information provided, although there were certain changes to the board of directors and management when comparing Hangzhou Sunny to Hangzhou ZU Sunny, Hangzhou Sunny is owned, managed and operated by the same principal owners as Hangzhou ZU Sunny.[12] Regarding its production of the subject merchandise, Hangzhou Sunny has stated that its production facility is the same as that of Hangzhou ZU Sunny.[13] Hangzhou Sunny also provided documentation showing that there has been no material changes in suppliers of inputs or services related to the production, sale and distribution of the subject merchandise[14] or in the U.S. customer base.[15] Based the foregoing, which is explained in greater detail in the Preliminary Results Memorandum, we preliminarily determine that Hangzhou Sunny is the successor-in-interest to Hangzhou ZU Sunny and, as such, that it is entitled to Hangzhou ZU Sunny's AD cash-deposit rate with respect to entries of subject merchandise.

Should our final results remain the same as these preliminary results, effective the date of publication of the final results, we will instruct U.S. Customs and Border Protection to suspend liquidation of entries of subject merchandise exported by Hangzhou

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[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012) ("*Order*").

[2] *See* Letter from Hangzhou Sunny to the Department regarding, "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From the People's Republic of China: Request for Expedited Changed Circumstances Review" (April 4, 2016) ("CCR Request").

[3] *See* Letter from Hangzhou Sunny to the Department, regarding "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules From the People's Republic of China: Supplemental Response" (May 4, 2016) ("Supplemental Response").

[4] For a complete description of the Scope of the Order, *see* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Preliminary Results of Changed Circumstances Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China" ("Preliminary Results Memorandum"), dated concurrently with, and adopted by, this notice.

[5] *See* 19 CFR 351.216(d).

[6] *See* 19 CFR 351.221(c)(3)(ii).

[7] *See, e.g.*, Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada, 70 FR 50299 (August 26, 2005).

[8] *See, e.g., Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring From the People's Republic of China*, 79 FR 48117, 48118 (August 15, 2014), unchanged in *Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review*, 79 FR 58740 (September 30, 2014).

[9] *Id.*

[10] *See Notice of Final Results of Changed Circumstances Review: Polychloroprene Rubber from Japan*, 69 FR 67890 (November 22, 2004) citing, *Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992); and, *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review*, 70 FR 17063 (April 4, 2005).

[11] *See*, generally, CCR Request and Supplemental Response.

[12] *See* Preliminary Results Memorandum at 3.

[13] *Id.*

[14] *Id.*, at 3.

[15] *Id.*

Sunny at the AD cash-deposit rate applicable to Hangzhou ZU Sunny.

**Public Comment**

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.[16] Rebuttal briefs, which must be limited to issues raised in such briefs, may be filed not later than seven days after the due date for case briefs.[17] Parties who submit case briefs or rebuttal briefs in this changed circumstances review are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument with an electronic version included.

Any interested party may request a hearing within 14 days of publication of this notice.[18] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230 in a room to be determined.[19]

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").[20] An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time ("ET") on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.[21]

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed-circumstances review no later than 270 days after the date on which this review was initiated or within 45 days if all parties agree to the outcome of the review.

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: May 20, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2016–12540 Filed 5–25–16; 8:45 am]

BILLING CODE 3510–DS–P

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[16] The Department is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

[17] The Department is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

[18] The Department is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

[19] *See* 19 CFR 351.310(d).

[20] ACCESS is available to registered users at *https://access.trade.gov* and available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

[21] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–552–801]

### Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Court Decisions Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On March 30, 2016, the United States Court of International Trade ("the Court") issued final judgments in *Catfish Farmers of America et al.* v. *United States,* Consol. Court No. 12–00087, sustaining the Department of Commerce's ("the Department") AR7 Remand final results.[1] In the AR7 Remand, the Department recalculated the weighted-average dumping margin for QVD Food Co. Ltd. ("QVD") and Vinh Hoan Corporation ("Vinh Hoan") using revised surrogate values for by-products (fish waste, fresh broken meat, and frozen broken fillets by-products, and capping the fish oil by-product surrogate value).[2] Because QVD's margin changed, it also becomes the margin for those companies not individually examined but receiving a separate rate.[3]

Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) ("*Diamond Sawblades*"), the Department is notifying the public that the final judgment in these cases is not in harmony with the Department's final results of the antidumping duty administrative review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam ("Vietnam") covering the period of review ("POR") August 1, 2009, through July 31, 2010. Thus, the Department is amending the final results with respect to the weighted-average dumping margins for QVD and the Separate-Rate Applicants.[4]

**DATES:** Effective April 11, 2016.

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2243.

**SUPPLEMENTARY INFORMATION:**

#### Background

On March 14, 2012, the Department issued *AR7 Final Results.*[5] Vinh Hoan and Petitioners[6] timely filed complaints with the Court and challenged certain aspects of the *AR7 Final Results.* On December 18, 2014, the Court remanded the Department's *AR7 Final Results* and instructed the Department to reconsider each of the following issues: (1) The significance of presumed qualifiable differences between farm-gate and wholesale prices with respect to whole live fish; (2) the reliability of the Bangladeshi Department of Agricultural Marketing ("DAM") data with respect to whole live fish; (3) the fact that there are no quantities associated with the DAM data; (4) surrogate country selection in light of the totality of the available data, *i.e.,* including the non-fish factors of production ("FOPs") surrogate values ("SVs") following reconsideration of the whole live fish issues; and (5) the selection of the SVs for fish waste, fish oil, fresh broken meat and frozen broken fillets.[7]

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[1] *See* Final Results Of Redetermination Pursuant To Court Remand, Consol. Court No. 12–00087, Slip Op. 14–146 (CIT December 18, 2014), dated June 26, 2015, ("AR7 Remand") available at *http://enforcement.trade.gov/remands/14-146.pdf.*

[2] *See* AR7 Remand at 25–29. The weighted-average margin for Vinh Hoan remains *de minimis.* However, as explained in the "Background" section, the Department's recalculation of these surrogate values now yields a different weighted-average dumping margin for QVD. Thus, consistent with our practice, the Department has amended the final results with respect to QVD.

[3] These companies include: (1) Anvifish Joint Stock Company; (2) Asia Commerce Fisheries Joint Stock Company; (3) Bien Dong Seafood; (4) Binh An Seafood Joint Stock Company; (5) CASEAMEX; (6) East Sea Seafoods Limited Liability Company; (7) Hiep Thanh Seafood Joint Stock Company; (8) Southern Fisheries Industries Company Ltd.; and (9) Vinh Quang Fisheries Joint-Stock Company (collectively, "Separate-Rate Applicants").

[4] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results and Partial Rescission of the Seventh Antidumping Duty Administrative Review,* 77 FR 15039 (March 14, 2012) ("*AR7 Final Results*") and accompanying Issues and Decision Memorandum.

[5] *Id.*

[6] Catfish Farmers of America and the following individual U.S. catfish processors: America's Catch, Consolidated Catfish Companies, LLC dba Country Select Catfish, Delta Pride Catfish, Inc., Harvest Select Catfish, Inc., Heartland Catfish Company, Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (collectively, "Petitioners").

On June 26, 2015, the Department filed the AR7 Remand with the Court.[8] The Department maintained the selection of Bangladesh as the primary country. In addition, the Department selected different surrogate values for fish waste, fresh broken meat, and frozen broken fillets by-products, and capped the fish oil by-product surrogate value. In addition, we accounted for all calculation changes as a result of the original ministerial error allegations.

As a result, there are calculation changes due to selecting different by-product surrogate values. After accounting for all such changes and issues, the resulting antidumping margin for the only mandatory respondent, QVD, is $0.19 per kilogram. Because QVD's margin changed, it would also become the margin for those companies not individually examined, but receiving a separate rate. On March 30, 2016, the Court entered judgments sustaining the AR7 Remand.[9]

**Timken Notice**

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The Court's March 30, 2016, judgment sustaining the AR7 Remand constitutes a final decision of the Court that is not in harmony with the Department's *AR7 Final Results.* This notice is published in fulfillment of the publication requirement of *Timken.*

**Amended Final Results**

Because there is now a final court decision, the Department is amending the *AR7 Final Results* with respect to QVD and the Separate-Rate Applicants. The revised weighted-average dumping margins for these exporters during the period April 1, 2009, through March 31, 2010, as follows:

| Exporter name | Weighted average dumping margin (dollars per kilogram) |
|---|---|
| QVD Food Company Ltd [10] | 0.19 |
| Anvifish Joint Stock Company | 0.19 |
| Asia Commerce Fisheries Joint Stock Company | 0.19 |
| Bien Dong Seafood | 0.19 |
| Binh An Seafood Joint Stock Company | 0.19 |
| CASEAMEX | 0.19 |
| East Sea Seafoods Limited Liability Company | 0.19 |
| Hiep Thanh Seafood Joint Stock Company | 0.19 |
| Southern Fisheries Industries Company Ltd | 0.19 |
| Vinh Quang Fisheries Joint-Stock Company | 0.19 |

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by QVD and the Separate-Rate Applicants using the assessment rate calculated by the Department in the Remand and listed above.

**Cash Deposit Requirements**

Unless the applicable cash deposit rates have been superseded by cash deposit rates calculated in an intervening administrative review of the AD order on frozen fish fillets from Vietnam, the Department will instruct U.S. Customs and Border Protection to require a cash deposit for estimated AD duties at the rate noted above for each specified exporter and producer combination, for entries of subject merchandise, entered or withdrawn from warehouse, for consumption, on or after April 11, 2016. For Bien Dong, these amended final results will result in a change in its cash deposit rate, from $0.03/kg, as established in the *AR7 Final Results, to $0.19/kg.*

**Notification to Interested Parties**

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 13, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2016–12543 Filed 5–25–16; 8:45 am]

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[7] *See Catfish Farmers of America et al.* v. *United States,* Court No. 12–00087, Slip Op. 14–146 (CIT December 18, 2014).

[8] *See* AR7 Remand.

[9] *See Catfish Farmers of America et al.* v. *United States,* Court No. 11–00087, Slip. Op. 16–29 (CIT March 30, 2016).

[10] This rate is also applicable to QVD Dong Thap Food Co., Ltd. ("Dong Thap") and Thuan Hung Co., Ltd. ("THUFICO"). In the second review of this order, the Department found QVD, Dong Thap and THUFICO to be a single entity, and because there has been no evidence submitted on the record of this review that calls this determination into question, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review,* 71 FR 53387 (September 11, 2006).

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A–570–504]**

## Certain Petroleum Wax Candles From the People's Republic of China: Continuation of Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Commerce.

**SUMMARY:** As a result of the determinations by the Department of Commerce ("Department") and the International Trade Commission ("ITC") that revocation of the antidumping duty ("AD") order on certain petroleum wax candles ("candles") from the People's Republic of China ("PRC") would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the

Department is publishing a notice of continuation of the antidumping duty order.

**DATES:** Effective May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Katie Marksberry, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7906.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 26, 1986, the Department published the *AD Order* on candles from the PRC.[1] On December 1, 2015, the Department published the notice of initiation of the fourth five-year ("sunset") review of the AD order on candles from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act").[2] As a result of its review, the Department determined that revocation of the AD order on candles from the PRC would likely lead to a continuation or recurrence of dumping. Therefore, the Department notified the ITC of the magnitude of the margins likely to prevail should the AD order be revoked.[3] On May 18, 2016, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the AD order on candles from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

### Scope of the Order

The products covered by the order are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: Tapers, spirals and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products were originally classifiable under the Tariff Schedules of the United States item 755.25, Candles and Tapers. The products are currently classifiable under the Harmonized Tariff Schedule ("HTS") item number 3406.00.00. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

### Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the AD order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD order on candles from the PRC. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the AD order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next sunset review of the AD order not later than 30 days prior to the fifth anniversary of the effective date of continuation. This sunset review and notice is in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: May 19, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2016–12542 Filed 5–25–16; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee Meeting

**AGENCY:** National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of Open Meeting (via webinar and teleconference).

**SUMMARY:** Notice is hereby given of a virtual meeting of the U.S. Integrated Ocean Observing System (IOOS®) Advisory Committee (Committee).

**DATES AND TIMES:** The public meeting will be held on Thursday, June 23, 2016, from 1:00 p.m. to 3:00 p.m. ET. These times and the agenda topics described below are subject to change. Refer to the Web page listed below for the most up-to-date meeting agenda.

**FOR FURTHER INFORMATION CONTACT:** Jessica Snowden, Designated Federal Official, U.S. IOOS Advisory Committee, U.S. IOOS Program, 1315 East-West Highway, 2nd Floor, Silver Spring, MD 20910, Silver Spring, MD 20910; Phone 240–533–9466; Fax 301–713–3281; Email *jessica.snowden@noaa.gov* or visit the U.S. IOOS Advisory Committee Web site at *https://ioos.noaa.gov/community/u-s-ioos-advisory-committee/*.

**SUPPLEMENTARY INFORMATION:** The Committee meeting will be held via webinar and teleconference. Members of the public who wish to participate in the meeting must register in advance by 5:00 p.m. ET on June 22, 2016. Please register by contacting Jessica Snowden, Designated Federal Official by email at *jessica.snowden@noaa.gov* or telephone at 240–533–9466. Webinar and teleconference information will be provided to registrants prior to the meeting. While the meeting will be open to the public, webinar and teleconference capacity may be limited.

The Committee was established by the NOAA Administrator as directed by Section 12304 of the Integrated Coastal and Ocean Observation System Act, part of the Omnibus Public Land Management Act of 2009 (Public Law 111–11). The Committee advises the NOAA Administrator and the Interagency Ocean Observation Committee (IOOC) on matters related to the responsibilities and authorities set forth in section 12302 of the Integrated Coastal and Ocean Observation System Act of 2009 and other appropriate matters as the Under Secretary refers to the Committee for review and advice.

The Committee will provide advice on:

(a) administration, operation, management, and maintenance of the System;

(b) expansion and periodic modernization and upgrade of technology components of the System;

(c) identification of end-user communities, their needs for information provided by the System, and the System's effectiveness in dissemination information to end-user communities and to the general public; and

(d) any other purpose identified by the Under Secretary of Commerce for Oceans and Atmosphere or the Interagency Ocean Observation Committee.

The meeting will be open to public participation with a 10 minute public comment period on June 23, 2016, from

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[1] *See Antidumping Duty Order: Petroleum Wax Candles From the People's Republic of China, 51 FR 30686 (August 28, 1986) ("Order").*

[2] *See Initiation of Five-Year ("Sunset") Review,* 80 FR 75064 (December 1, 2015).

[3] *See Certain Petroleum Wax Candles from the People's Republic of China: Final Results of Expedited Fourth Sunset Review of the Antidumping Duty Order,* 81 FR 17665 (March 30, 2016) and accompanying Issues and Decision Memorandum.

[4] *See Petroleum Wax Candles from China,* 81 FR 31256 (May 18, 2016); Petroleum Wax Candles from China (Inv. No. 731–TA–282 (Fourth Review), USITC Publication 4610, May 2016).

2:50 p.m. to 3:00 p.m. (check agenda on Web site to confirm time.) The Committee expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by the Designated Federal Official by June 17, 2016 to provide sufficient time for Committee review. Written comments received after June 17, 2016, will be distributed to the Committee, but may not be reviewed prior to the meeting date.

**MATTERS TO BE CONSIDERED:** The meeting will focus on review of draft recommendations on how the U.S. IOOS Program Office could improve the Ocean Technology Transition (OTT) Program. The agenda is subject to change. The latest version will be posted at *https://ioos.noaa.gov/community/u-s-ioos-advisory-committee/*.

Dated: May 16, 2016.

**Zdenka Willis,**

*Director, U.S. Integrated Ocean Observing System Office.*

[FR Doc. 2016–12475 Filed 5–25–16; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD162**

### Endangered Species; File No. 18029

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Tasha L. Metz, Ph.D., Texas A&M University at Galveston, Department of Marine Biology, P.O. Box 1675, Galveston, TX 77551 has been issued a permit to take loggerhead (*Caretta caretta*), green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

**FOR FURTHER INFORMATION CONTACT:** Rosa González or Amy Hapeman, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** On March 12, 2014, notice was published in the **Federal Register** (79 FR 13991) that a request for a scientific research permit to take sea turtles had been submitted by the above-named individual. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 18029 authorizes Dr. Metz to capture loggerhead, green, Kemp's ridley, and hawksbill sea turtles using nets to continue studying relative abundance, distribution, habitat use, and health status of the above sea turtle species in estuarine and nearshore waters in the northwestern Gulf of Mexico particularly off Texas and Louisiana. Visual surveys by vessel may also be performed. Captured turtles would be examined, biologically sampled, and tagged prior to release. A select number may be outfitted with satellite transmitters to track movements post-release. The permit expires on May 31, 2021.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 23, 2016.

**Julia Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2016–12445 Filed 5–25–16; 8:45 am]

**BILLING CODE 3510–22–P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD756**

### Endangered and Threatened Species; 5-Year Reviews for 28 Listed Species of Pacific Salmon, Steelhead, and Eulachon

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability.

**SUMMARY:** NMFS' West Coast Region announces the availability of 5-year reviews for 17 evolutionarily significant units (ESUs) of Pacific salmon (*Oncorhynchus sp.*), 10 distinct population segments (DPSs) of steelhead (*O. mykiss*), and the southern DPS of eulachon (*Thaleichthys pacificus*) as required by the Endangered Species Act of 1973, as amended (ESA). The purpose of the reviews was to evaluate whether the listing classifications of these species remains accurate or should be changed. After reviewing the best available scientific and commercial data, we conclude that no changes in the ESA-listing status for the 27 salmonid ESUs and DPSs, or the southern DPS of eulachon, are warranted at this time.

**ADDRESSES:** Additional information about the 5-year reviews may be obtained by visiting the NMFS West Coast Region's Web site: *http://www.westcoast.fisheries.noaa.gov*, or by writing to us at: NMFS West Coast Region, Protected Resources Division, 1201 Lloyd Blvd., Suite 1100, Portland, OR 97232.

**FOR FURTHER INFORMATION CONTACT:** Dr. Scott Rumsey at the above address, by phone at (503) 872–2791, or by email at *scott.rumsey@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every 5 years. On the basis of such reviews under section 4(c)(2)(B), we determine whether any species should be removed from the list (delisted), or reclassified from endangered to threatened or from threatened to endangered. During 5-year reviews, we consider the best scientific and commercial data available, including new information that has become available since the last listing determination or most recent status review of a species.

On February 6, 2015, the NMFS West Coast Region announced initiation of 5-year reviews of all 28 ESA-listed Pacific salmon ESUs and steelhead DPSs, the southern DPS of eulachon, and three DPSs of Puget Sound rockfishes (*Sebastes spp.*) (80 FR 6695). Both ESUs and DPSs are treated as 'species' under the ESA. At the time of our announcement, we requested information on species viability, threats to the species, and protective efforts, from the public, concerned governmental agencies, Tribes, the scientific community, environmental entities, and other interested parties.

This notice addresses the following ESUs and DPSs: (1) Sacramento River winter-run Chinook salmon ESU; (2)

Upper Columbia River spring-run Chinook salmon ESU; (3) Snake River spring/summer-run Chinook salmon ESU; (4) Central Valley spring-run Chinook salmon ESU; (5) California Coastal Chinook salmon ESU; (6) Puget Sound Chinook salmon ESU; (7) Lower Columbia River Chinook salmon ESU; (8) Upper Willamette River Chinook salmon ESU; (9) Hood Canal summer-run chum salmon ESU; (10) Columbia River chum salmon ESU; (11) Central California Coast coho salmon ESU; (12) Southern Oregon/Northern California Coast coho salmon ESU; (13) Lower Columbia River coho salmon ESU; (14) Oregon Coast coho salmon ESU; (15) Snake River sockeye salmon ESU; (16) Ozette Lake sockeye salmon ESU; (17) Southern California steelhead DPS; (18) Upper Columbia River steelhead DPS; (19) Middle Columbia River steelhead DPS; (20) Snake River Basin steelhead DPS; (21) Lower Columbia River steelhead DPS; (22) Upper Willamette River steelhead DPS; (23) South-Central California Coast steelhead DPS; (24) Central California Coast steelhead DPS; (25) Northern California steelhead DPS; (26) California Central Valley steelhead DPS; (27) Puget Sound steelhead DPS; and (28) the southern DPS of eulachon.

On January 16, 2015, we received a petition from the Chinook Futures Coalition to delist the Snake River fall-run Chinook ESU under the ESA. On April 22, 2015, we published a positive 90-day finding (80 FR 22468) that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted, and we announced the initiation of a status review. While the Snake River fall-run Chinook salmon ESU was included as part of our 5-year reviews of West Coast salmon and steelhead, the results of our review of Snake River fall-run Chinook salmon and our finding on the delisting petition are addressed in a separate notice in this issue of the **Federal Register**. The 5-year review findings for the three Puget Sound/Georgia Basin DPSs of yelloweye rockfish, canary rockfish, and bocaccio rockfish will be announced separately on our Web site: *http://www.westcoast.fisheries.noaa.gov.*

We used a multi-step process to complete the subject 5-year review. First, we asked scientists from NMFS' Northwest and Southwest Fisheries Science Centers to collect and analyze new information about species viability. To evaluate species viability, our scientists evaluate four criteria—abundance, productivity, spatial structure, and diversity. They also considered new genetic and biogeographic information regarding species' ranges. At the end of this process, the Northwest and Southwest Fisheries Science Centers prepared two reports detailing the results of their analyses.

Next, biologists from the NMFS West Coast Region with expertise in salmonid hatchery management conducted a review of all West Coast salmonid hatchery programs associated with the ESA-listed salmon and steelhead. Their evaluation was guided by NMFS' Policy on the Consideration of Hatchery-Origin Fish in Endangered Species Act Listing Determinations for Pacific Salmon and Steelhead (Hatchery Listing Policy) (70 FR 37204; June 28, 2005). A memorandum (Jones 2015) summarizes their evaluation of the relatedness of related hatchery stocks relative to the local natural populations to determine if the stocks warrant inclusion as part of the respective ESA listings.

Finally, we formed geographically-based teams of salmon and eulachon management biologists from our West Coast Region to evaluate information related to the five ESA section 4(a)(1) listing factors. These section 4(a)(1) factors are: (1) The present or threatened destruction, modification, or curtailment of the species' habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or man-made factors affecting the species' continued existence. These teams produced "5-Year Review Reports" that incorporate the findings of the Northwest and Southwest Fisheries Science Centers' reports, summarize new information concerning the delineation of the subject ESUs and DPSs and inclusion of closely related salmonid hatchery programs, and detail the evaluation of the ESA section 4(a)(1) listing factors. The Northwest and Southwest Fisheries Science Centers' reports, the 5-year review reports, and additional information are available on our Web site: *http://www.westcoast.fisheries.noaa.gov.*

## Findings

After considering the best available information, we conclude that the 17 Pacific salmon ESUs, the 10 steelhead DPSs, and the southern DPS of eulachon detailed above shall remain listed as currently classified.

We also conclude that, based on the best information available, no adjustments to the species' ranges are necessary. We did conclude that the species membership of several salmonid hatchery programs will need to be revised. We will adjust the hatchery memberships through a subsequent rulemaking.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: May 23, 2016.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2016–12454 Filed 5–25–16; 8:45 am]

BILLING CODE 3510–22–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

[Docket No. 150211136–6422–02]

RIN 0648–XD769

## Endangered and Threatened Wildlife and Plants; Notice of 12-Month Finding on a Petition To Delist the Snake River Fall-Run Chinook Salmon Evolutionarily Significant Unit Under the Endangered Species Act (ESA)

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of 12-month finding and availability of 5-year reviews.

**SUMMARY:** We, NMFS, announce a 12-month finding on a petition to delist the Snake River fall-run Chinook salmon (*Oncorhynchus tshawytscha*) (Snake River fall-run Chinook) Evolutionarily Significant Unit (ESU) under the Endangered Species Act (ESA). The Snake River fall-run Chinook ESU was listed as threatened under the ESA in 1992. We have completed a comprehensive review of the status of the species in response to the petition. Based on the best scientific and commercial data available, we have determined that delisting of the Snake River fall-run Chinook ESU is not warranted at this time. We conclude that the Snake River fall-run Chinook is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, and will remain listed as a threatened species under the ESA. We also announce the availability of 5-year reviews, prepared pursuant to ESA, for four Snake River salmonid species: The Snake River fall-run Chinook ESU, the Snake River sockeye salmon ESU, the Snake River spring/summer Chinook salmon ESU, and the Snake River steelhead distinct population segment (DPS). We combined our evaluations and findings for these four species into a joint report. This 5-Year Review Report determined that the four Snake

River salmon species, including the Snake River fall-run Chinook ESU, should retain their current listed status under the ESA.

**DATES:** This finding was made on May 26, 2016.

**ADDRESSES:** The documents informing the 12-month finding are available electronically at: *http://www.westcoast.fisheries.noaa.gov/*. You may also receive copies of these documents by submitting a request to the Protected Resources Division, West Coast Region, NMFS, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, Attention: Snake River fall-run Chinook 12-month Finding.

**FOR FURTHER INFORMATION CONTACT:** Dr. Scott Rumsey, NMFS West Coast Region at (503) 872–2791; or Maggie Miller, NMFS Office of Protected Resources at (301) 427–8403.

**SUPPLEMENTARY INFORMATION:**

## Background

The Snake River fall-run Chinook ESU was listed as threatened under the ESA in 1992 (57 FR 14658; April 22, 1992). We have twice affirmed that the Snake River fall-run Chinook ESU should remain classified as a "threatened" species under the ESA following reviews of the species' status in 2005 (70 FR 37160; June 28, 2005) and again in 2011 (76 FR 50448; August 15, 2011). On January 16, 2015, we received a petition from the Chinook Futures Coalition to delist the Snake River fall-run Chinook ESU under the ESA. Separately, on February 6, 2015, we published a notice of initiation of 5-year reviews, as required by ESA section 4(c)(2)(A), for 32 West Coast marine and anadromous ESA-listed species, including the Snake River fall-run Chinook ESU, and requested information from the public to inform our reviews (80 FR 6695; February 6, 2015). On April 22, 2015, we published a positive 90-day finding (80 FR 22468) that the Snake River fall-run Chinook ESU delisting petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. As required by ESA section 4(b)(3)(A), our April 22, 2015 finding announced the initiation of a status review to determine whether the petitioned action was warranted and invited the public to submit scientific and commercial information to inform our review. We explained that any information submitted to inform the 5-year review for Snake River fall-run Chinook ESU would also be considered in making our 12-month finding for that species.

## Listing Species Under the Endangered Species Act

Section 3 of the ESA defines an endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range," and a threatened species as one "which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." To be considered for listing under the ESA, a group of organisms must constitute a "species," which is defined in section 3 of the ESA to include "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." For identifying species of Pacific steelhead, we apply the joint NMFS–U.S. Fish and Wildlife Service (USFWS) Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Endangered Species Act (DPS Policy) (61 FR 4722; February 7, 1996). Under the DPS Policy, we consider two elements in evaluating whether a vertebrate population segment qualifies as a DPS, and consequently a 'species,' under the ESA: (1) Discreteness of the population segment in relation to the remainder of the species/taxon, and, if discrete; (2) the significance of the population segment to the species/taxon. For Pacific salmon, we apply our Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon (ESU Policy) in identifying species (56 FR 58612; November 20, 1991). Per the ESU Policy, to qualify as a DPS, a Pacific salmon population or group of populations must be substantially reproductively isolated and represent an important component in the evolutionary legacy of the biological species. A population meeting these criteria is considered to be an "evolutionarily significant unit" (ESU), and hence a "species," under the ESA (56 FR 58612).

Section 4(b)(1)(A) of the ESA requires NMFS to make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts being made to protect the species. Section 4(a)(1) of the ESA and NMFS' implementing regulations (50 CFR part 424) also states that we must determine whether a species is endangered or threatened because of any one or a combination of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or man-made factors affecting its continued existence. A species may be removed from the list if the Secretary of Commerce determines, based on the best scientific and commercial data available and after conducting a review of the species' status, that the species is no longer threatened or endangered because of one or a combination of the section 4(a)(1) factors. Pursuant to our regulations at 50 CFR 424.11(d), a species may be delisted only if such data substantiate that it is neither endangered nor threatened for one or more of the following reasons:

(1) *Extinction.* Unless all individuals of the listed species had been previously identified and located, and were later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to indicate clearly that the species is extinct.

(2) *Recovery.* The principal goal of the ESA is to return listed species to a point at which protection under the ESA is no longer required. A species may be delisted on the basis of recovery only if the best scientific and commercial data available indicate that it is no longer endangered or threatened.

(3) *Original data for classification in error.* Subsequent investigations may show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error.

## ESA Section 4 Status Reviews

Section 4(c)(2)(A) of the ESA requires that we conduct a review of the status of each listed species under our jurisdiction at least once every 5 years (5-year reviews). In conducting 5-year reviews, we consider the best scientific and commercial data available to determine whether any species should be: (1) Delisted; (2) changed in status from endangered to threatened; or (3) changed in status from threatened to endangered. On February 6, 2015, we published a notice of initiation of 5-year reviews for West Coast ESA-listed species, including the Snake River fall-run Chinook ESU (80 FR 6695; February 6, 2015), and solicited information to inform the 5-year reviews during a 90-day public comment period.

Section 4(b)(3) of the ESA requires that, when NMFS makes a positive 90-day finding on a petition to list or delist a species, we must promptly commence a review of the status of the species concerned. As part of our April 22, 2015, positive 90-day finding on the subject delisting petition, we announced the initiation of a status review of the Snake River fall-run Chinook ESU and solicited information to inform that review during a 60-day public comment period (80 FR 22468). We explained in our April 22, 2015 notice that we would consider all information received in response to either the 5-year review or positive 90-day finding requests for information in making our 12-month finding for Snake River fall-run Chinook ESU. In response to these requests for information, we received information from Federal and state agencies, Native American Tribes, conservation organizations, fishing and industry groups, and individuals. This information, as well as other information routinely collected by our agency, informed our status review of the Snake River fall-run Chinook ESU, as well as the 5-year reviews of the other Snake River species.

To realize efficiencies and to ensure that our reviews were based on the best scientific and commercial information available, we integrated our section 4(b)(3)(B) status review and our section 4(c)(2)(A) 5-year review of the Snake River fall-run Chinook ESU. We also consolidated our 5-year reviews of the four listed Snake River salmonid species into a joint report. We used a multi-step process to complete these reviews. First, scientists from our Northwest Fisheries Science Center collected and analyzed information about the viability of the Pacific Northwest salmon ESUs and steelhead DPSs undergoing 5-year reviews, including the Snake River salmon ESUs and steelhead DPS. As part of Northwest Fisheries Science Center's review, the scientists also evaluated life-history, genetic, and other information that might inform a reconsideration of the delineation of the salmon ESUs and steelhead DPSs. At the end of this process, the Northwest Fisheries Science Center prepared a report detailing the results of their analyses (NWFSC 2015).

Next, biologists from NMFS' West Coast Region with expertise in hatchery management conducted a review of all West Coast salmonid hatchery programs associated with the ESA-listed salmon and steelhead. Their evaluation was guided by NMFS' Policy on the Consideration of Hatchery-Origin Fish in Endangered Species Act Listing Determinations for Pacific Salmon and Steelhead (Hatchery Listing Policy) (70 FR 37204; June 28, 2005). Under the Hatchery Listing Policy, we consider hatchery stocks to be part of an ESU/DPS if they exhibit a level of genetic divergence relative to the local natural population(s) that is no more than what occurs within the ESU (70 FR 37204; 37215). A memorandum (Jones 2015) summarizes their evaluation of the relatedness of hatchery stocks relative to the local natural populations to determine if the stocks warrant inclusion as part of the respective ESA listings (see the "Delineation of Species" section, below).

Finally, we formed geographically-based teams of salmon management biologists from our West Coast Region to evaluate information related to the five ESA section 4(a)(1) factors. These teams produced "5-Year Review Reports" that incorporate the findings of the Northwest Fisheries Science Center's report, summarize new information concerning the delineation of the subject ESUs and DPSs and inclusion of closely related hatchery programs, and detail the evaluation of the ESA section 4(a)(1) factors. An evaluation team conducted the review for the four ESA-listed salmon and steelhead species in the Snake River Basin and consolidated its evaluation and findings for these four species in a joint Snake River 5-Year Review Report (NMFS 2016).

Separately, on November 2, 2015, we announced the availability of the proposed recovery plan for Snake River fall-run Chinook salmon (Proposed Recovery Plan) for public review and comment (80 FR 67386). On December 17, 2015, we announced a 30-day extension of the public comment period on the Proposed Recovery Plan (80 FR 78719). The Proposed Recovery Plan (NMFS 2015) includes an appendix (Appendix A) detailing a viability assessment for the Snake River fall-run Chinook ESU. Because the ESA section 4(b)(3)(B) status review for the Snake River fall-run Chinook ESU and the ESA section 4(c)(2)(A) 5-year reviews for all of the Snake River ESA-listed salmon and steelhead species were underway at the time the Proposed Recovery Plan was released, the viability assessment in Appendix A incorporated the available materials and analyses from the ongoing reviews. The results of the viability assessment detailed in Appendix A are incorporated in the Northwest Fisheries Science Center's report (NWFSC 2015). This 12-month finding relies upon the information presented in the Proposed Recovery Plan's viability assessment (NMFS 2015, Appendix A), the Northwest Fisheries Science Center's report (NWFSC 2015), the review of West Coast salmonid hatchery programs (Jones 2015), the Snake River 5-year Review Report (NMFS 2016), as well as pertinent information submitted as part of the public comment periods that was not otherwise incorporated in the aforementioned documents. These documents are available at our West Coast Region's Web site (see **ADDRESSES**, above).

## Petition Finding

Section 4(b)(3)(B) of the ESA requires us to make a finding within 12-months of the date of receipt of any petition that was found to present substantial information indicating that the petitioned action may be warranted. The 12-month finding must provide a determination of whether the petitioned action is: (a) Not warranted; (b) warranted; or (c) warranted but precluded. In this case, we are responsible for determining whether the Snake River fall-run Chinook ESU warrants delisting from the ESA.

The subject delisting petition asserts three points in support of the petitioned action: First, that NMFS may not base delisting criteria by considering only the status of natural (non-hatchery) fish; second, that the ESU has met NMFS' delisting criteria; and, third, that the ESU currently meets the statutory standards for delisting. We discuss these points in the pertinent sections below.

### *Determination of Species*

As currently listed, the Snake River fall-run Chinook salmon ESU consists of the one extant Lower Mainstem Snake River population, which includes all naturally spawned fall-run Chinook salmon originating from the mainstem Snake River below Hells Canyon Dam and from the Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River subbasins. The ESU also includes four artificial propagation programs: The Lyons Ferry Hatchery Program, Fall Chinook Acclimation Ponds Program, Nez Perce Tribal Hatchery Program, and Oxbow Hatchery Program (70 FR 37200; June 28, 2005).

Historically, the Snake River fall-run Chinook ESU also spawned above the Hells Canyon Dam Complex in the upper mainstem Snake River and tributaries (NWFSC 2015; NMFS 2015, Appendix A therein; NMFS 2016). This historical population is now extirpated. The area upstream of Hells Canyon historically supported the majority of all Snake River fall-run Chinook production until the area became inaccessible due to dam construction. The construction of Swan Falls Dam in 1901 blocked access to 157 miles including the historically productive fall-run Chinook habitat in the middle Snake River downstream of Shoshone Falls, a natural barrier to further upstream migration. The construction of dams associated with the Hells Canyon

Dam Complex in the late 1950s and 1960s barred the fish from the remaining spawning areas in the middle mainstem reach. The loss of this upstream habitat and inundation of downstream spawning areas by reservoirs associated with the Hells Canyon Complex and the lower Snake River dams reduced spawning habitat for the single extant population—the Lower Mainstem Snake River population—to approximately 20 percent of the area historically available (NMFS 2016).

As described above, the ESA's definition of 'species' includes distinct population segments, which, for West Coast salmon includes ESUs. The petitioners did not request that we reconsider the composition of the listed Snake River fall-run Chinook ESU. Nonetheless, in our review, we solicited and evaluated all available information not previously considered that might inform a reconsideration of the reproductive isolation and evolutionary significance of the Snake River fall-run Chinook ESU. Information that can be useful in determining the degree of reproductive isolation includes incidences of straying, rates of recolonization, degree of genetic differentiation, and the existence of barriers to migration. Insight into evolutionary significance can be provided by data on genetic and life-history characteristics, habitat and ecological differences, and the effects of stock transfers or supplementation efforts on historical patterns of diversity. There was no such information that was not previously considered and that might warrant reconsideration of the geographical extent and composition of the Snake River fall-run Chinook ESU (NWFSC 2015).

As part of our review, we also evaluated all hatchery programs geographically associated with the Snake River fall-run Chinook ESU to determine whether: Any of the four currently listed hatchery programs had been terminated; any new hatchery programs had been founded that would warrant inclusion in the ESU; the current level of divergence of any listed hatchery stocks relative to the local natural population had increased such that the stock(s) might warrant exclusion from the ESU; and, the level of divergence of any existing non-listed hatchery programs relative to the local natural population had decreased such that the stock(s) might warrant inclusion in the ESU. Our review of the hatchery programs associated with the Snake River fall-run Chinook ESU did not suggest that any changes in the ESU membership of hatchery programs are warranted (Jones 2015).

Based on the foregoing information, we conclude that no changes in the definition of the Snake River fall-run Chinook ESU are warranted at this time. The Snake River fall-run Chinook ESU should remain defined as naturally spawned fall-run Chinook salmon originating from the mainstem Snake River below Hells Canyon Dam and from the Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River subbasins. Also, fall-run Chinook salmon from four artificial propagation programs are included in the Snake River fall-run Chinook ESU: The Lyons Ferry Hatchery Program; Fall Chinook Acclimation Ponds Program; Nez Perce Tribal Hatchery Program; and the Tacoma Power (formerly "Oxbow") Hatchery Program.

## Assessment of Extinction Risk

We assess the extinction risk of Pacific salmon ESUs using the Viable Salmonid Population (VSP) concept developed by McElhany *et al.* (2000). The VSP concept evaluates four criteria—abundance, productivity, spatial structure, and diversity—to assess species viability. The risk of extinction of an ESU depends upon the abundance, productivity, geographic distribution, and diversity of the naturally spawned populations comprising it. Abundance and productivity need to be sufficient to provide for population-level persistence in the face of year-to-year variations in environmental conditions. Spatial structure of populations should provide for resilience to the potential impact of catastrophic events. Diversity should provide for patterns of phenotypic, genotypic, and life-history diversity that sustains natural production across a range of conditions, allowing for adaptation to changing environmental conditions.

### *Consideration of Hatchery-Origin Fish*

The petitioners assert that NMFS must consider the contribution of hatcheries in any delisting decision where hatchery fish are part of the ESU. The petitioners further state that it would be a violation of the ESA for NMFS to consider whether the Snake River fall-run Chinook ESU meets delisting criteria based only on whether natural, non-hatchery spawners have met certain thresholds. We agree that hatchery fish must be included in our assessment of the Snake River fall-run Chinook ESU's status, in context of their contribution to conserving natural self-sustaining populations, as provided in our Hatchery Listing Policy.

Pursuant to the Hatchery Listing Policy, we base our status determinations for Pacific salmon and steelhead on the status of the entire ESU, including any hatchery fish included in the ESU. As noted above, we consider a hatchery stock to be part of an ESU if the stock's level of genetic divergence relative to the local natural population(s) is no more than what occurs within the ESU (70 FR 37204; June 28, 2005). Consistent with section 2(b) of the ESA (16 U.S.C. 1531(b)), we apply the Hatchery Listing Policy in support of the conservation of naturally-spawning salmon and the ecosystems upon which they depend (70 FR 37204, 37215). Accordingly, we include hatchery fish in assessing the status of an ESU in the context of their contributions to conserving natural self-sustaining populations, which we evaluate by assessing the status of the natural fish that comprise the populations.

The Hatchery Listing Policy recognizes that the presence of hatchery fish within an ESU can positively affect the overall status of the ESU, and thereby affect a listing determination, by contributing to the increased abundance and productivity of the natural populations in the ESU, improving spatial distribution, serving as a source population for repopulating unoccupied habitat, or conserving genetic resources of depressed natural populations in the ESU. Conversely, a hatchery program managed without adequate consideration of its adverse effects can affect the status of an ESU by reducing the reproductive fitness and productivity of the ESU, or reducing the adaptive genetic diversity of the ESU.

There are four hatchery programs included in the Snake River fall-run Chinook ESU: The Lyons Ferry Hatchery Program, Fall Chinook Acclimation Ponds Program, Nez Perce Tribal Hatchery Program, and Oxbow Hatchery Program. These hatchery programs release fish into the mainstem Snake River and Clearwater River which represent the majority of the remaining habitat available to this ESU. Our previous listing determination for the Snake River fall-run Chinook ESU concluded that these hatchery programs collectively do not substantially reduce the extinction risk of the ESU (70 FR 37160; June 28, 2005). These hatchery programs have contributed to the substantial increases in total ESU abundance and spawning escapement. However, the large fraction of naturally spawning hatchery fish complicates assessments of the ESU's productivity. The broad distribution of naturally spawning hatchery fish has increased the ESU's spatial distribution, although the distribution of natural-origin production in the extant population is unknown due to the prevalence of naturally spawning hatchery fish. The Lyons Ferry Hatchery program has preserved genetic diversity in the past during years of critically low abundance. However, the ESU-wide use of a single hatchery broodstock may pose long-term genetic risks, impede the expression of life-history diversity, and limit adaptation to different habitat areas.

As explained above, we evaluate the status of Pacific Northwest salmon ESUs based on four biological criteria (abundance, productivity, spatial structure, and diversity) with respect to naturally-spawning fish, which reflects how hatchery fish are contributing to the viability of the ESU as a whole. We do not interpret the ESA as requiring that we assess extinction risk based on the abundance, productivity, spatial-structure, or diversity of hatchery fish. Furthermore, failing to account for the biological distinctions between hatchery and naturally spawned salmon would be inconsistent with our obligation to base ESA listing decisions on the best scientific and commercial data available. Our Hatchery Listing Policy has been upheld by the Federal courts as a reasonable interpretation of the ESA (*Trout Unlimited* v. *Lohn*, 599 F.3d 946 (9th Cir. 2009)). The court stated that "the ESA is primarily focused on natural populations," and that "the [plaintiff's] demand for 'equal treatment' of hatchery and naturally spawned fish during the [status] review process simply finds no grounding in the statutory text of the ESA" (*Id.* at 957, 960). The petitioners' argument that we must treat hatchery and natural fish equally in evaluating the status of the ESU is inconsistent with our policy and with the court's decision.

### *Viability Criteria and Recovery Planning*

For the purposes of recovery planning and development of recovery criteria, in 2001 we convened the Interior Columbia Technical Recovery Team (Technical Recovery Team) composed of multi-disciplinary scientists from universities as well as Federal, state, and tribal agencies. The Technical Recovery Team was tasked with providing scientific support to recovery planners by developing biologically based viability criteria, analyzing alternative recovery strategies, and providing scientific review of draft plans. The Technical Recovery Team identified independent populations for each Snake River ESA-listed species. These independent populations were grouped into "major population groups" based on genetic similarities, shared habitat characteristics, population dispersal distances, and common life-history traits. The Technical Recovery Team determined that the Snake River fall-run Chinook ESU was historically composed of a single major population group only. As noted above, the Snake River fall-run Chinook ESU has been determined to consist of the extant Lower Snake Mainstem population, and an extirpated population that historically occurred in the upper mainstem Snake River and tributaries above the present-day Hells Canyon Dam Complex (ICTRT 2003; NWFSC 2015; NMFS 2016).

In 2007, the Technical Recovery Team also developed biological viability criteria, based on the VSP concept. The viability criteria reference the following levels of extinction risk: "very low" risk corresponds to less than a 1 percent risk of extinction over a 100-year period; "low" risk corresponds to a 1 to 5 percent risk of extinction over a 100-year period; "moderate" risk corresponds to a 6 to 25 percent risk of extinction over a 100-year period; and "high" risk corresponds to a greater than 25 percent risk of extinction over a 100-year period (ICTRT 2007). The Technical Recovery Team's report "*Viability Criteria for Application to Interior Columbia Basin Salmonid ESUs*" describes the methodology and considerations for determining composite risk scores for abundance/productivity, and for spatial structure/diversity (ICTRT 2007). For an ESU to be determined viable, it needs to achieve at least an overall status of low risk through a combination of its abundance/productivity and spatial structure/diversity risks. An ESU is at least viable overall if its abundance/productivity risk is low to very low, and its spatial structure/diversity risk is moderate to very low.

The Technical Recovery Team recognized that ESUs that contain only one major population group, such as the Snake River fall-run Chinook ESU, are inherently at greater risk of extinction due to more limited spatial structure and diversity, and potentially due to more limited abundance and productivity. To mitigate this inherently higher risk, the Technical Recovery Team applied more stringent viability criteria for ESUs with a single major population group. In addition to achieving an overall status of at least low risk (*i.e.*, a 5 percent or less risk of extinction over 100 years), an ESU with a single major population group also needs to satisfy two additional conditions: Two-thirds or more of the historical populations within the ESU should meet the criteria for low risk; and at least two populations should meet the criteria for very low risk (*i.e.*, highly viable). Applying the Technical Recovery Team's viability criteria, both a re-established population above the Hells Canyon Dam complex and the extant Lower Mainstem Snake River population would need to achieve highly viable status for the Snake River fall-run Chinook ESU to be considered for delisting. Highly viable status for these populations corresponds to very low risk in abundance/productivity and very low to low risk in spatial structure/diversity (the reader is referred to ICTRT (2007) for a detailed description of the Technical Recovery Team's viability criteria). The Technical Recovery Team recognized the difficulty of re-establishing a fall-run Chinook population above the Hells Canyon Dam Complex, and suggested that initial recovery efforts emphasize improving the status of the extant population, while creating the potential for re-establishing an additional population (ICTRT 2007). The Technical Recovery Team also recognized that, in general, "different scenarios of ESU recovery may reflect alternative combinations of viable populations and specific policy choices regarding acceptable levels of risk" (ICTRT 2007).

During recovery planning for Snake River fall-run Chinook, we determined that the spatial complexity and size of the extant population provide opportunities for alternative viability scenarios as policy choices for delisting. Each scenario would require specific viability criteria and potential metrics for measuring viability characteristics designed to meet the basic set of viability objectives adopted by the Technical Recovery Team. Those alternative recovery scenarios are presented in the Proposed Recovery Plan (NMFS 2015) along with their corresponding alternative metrics for measuring viability. The scenarios provide a range of potential population characteristics that, if achieved, would indicate that the ESU has met the ESU-level recovery objectives. The scenarios are summarized briefly below:

*Scenario A—two populations, one highly viable and the other viable.* This scenario would achieve ESU recovery by improving the status of the Lower Mainstem Snake River population to highly viable, and by reestablishing the extirpated Middle Snake River population above the Hells Canyon Dam Complex to viable status. While the Technical Recovery Team viability criteria would require both populations to meet highly viable status, this scenario would only require "viable" status (low risk for abundance/productivity, and moderate to very low risk for spatial structure/diversity) for the reestablished Middle Snake River population. This scenario recognizes that a reestablished population above the Hells Canyon Dam Complex would provide the ESU protection against catastrophic losses, and that a highly viable Lower Mainstem Snake River population would provide a robust expression of life-history diversity.

*Scenario B—single population measured in the aggregate.* Proposed scenario B illustrates a single-population pathway to ESU recovery, where VSP objectives would be evaluated in the aggregate (population-wide), based on all natural-origin adult spawners. This single-population recovery scenario recognizes the potential spatial complexity within the Lower Mainstem Snake River population, and the potential for the corresponding expression of life-history diversity in the population if it achieved highly viable status. This scenario would require that highly viable status for the extant population to be attained with a higher degree of statistical certainty than in proposed Scenario A.

*Potential additional scenarios—natural production emphasis areas.* The Proposed Recovery Plan identifies the potential to develop additional single-population recovery scenarios that would be a variation on scenario B. Under these potential additional scenarios, "natural production emphasis areas" for some major spawning areas would have a low percentage of hatchery-origin spawners and produce a significant level of natural-origin adult spawners. The remaining major spawning areas could have higher acceptable levels of hatchery-origin spawners than under Scenario B. The single population would still need to achieve a status of "highly viable" with a high degree of certainty.

In lieu of a final Snake River fall-run Chinook recovery plan with final delisting scenarios against which to compare current ESU status, in this status review we must base our determination of whether delisting is warranted on the best scientific and commercial information available. The Technical Recovery Team viability criteria, and the proposed recovery scenarios articulated in the Proposed Recovery Plan, provide useful guides for evaluating the conditions that must be met for the petitioned delisting of Snake River fall-run Chinook to be warranted. All of the available viability criteria and recovery scenarios suggest that the extant Lower Mainstem Snake River population must be at least "highly viable." While reestablishing the extirpated Middle Snake River population above the Hells Canyon Dam Complex may not be necessary to achieve recovery, the Lower Mainstem Snake River population must exhibit sufficient demographic and spatial complexity to reduce the risk of catastrophic loss, and must also exhibit sufficient diversity to ensure resilience against future environmental variability and change. If the extant Lower Mainstem Snake River population is highly viable, then it is possible that the Snake River fall-run Chinook ESU may warrant delisting. If the extant Lower Mainstem Snake River population is less than highly viable, it is unlikely that the ESU warrants delisting at this time.

The petitioners argue that the Snake River fall-run Chinook ESU has met the viability criteria established by the Technical Recovery Team and should therefore be delisted. They assert that the long-term risk of ESU extinction is less than 1 percent within a 100-year period, and that the ESU has met NMFS' viability criteria. In particular, they argue that: The ESU has met abundance and productivity criteria; a second population of the ESU has been re-established in the Clearwater River, satisfying the spatial structure criterion; and NMFS' diversity criterion is "antithetical to the ESA as currently applied to Pacific salmon." We address these contentions below.

### *Evaluation of Demographic Risks*

For a more detailed description of the analyses, updated status, trends and viability of the Snake River fall-run Chinook ESU, the reader is referred to the Northwest Fisheries Science Center report (NWFSC 2015) and the Updated Viability Assessment included in the Proposed Recovery Plan (NMFS 2015, Appendix A).

### *Abundance and Productivity*

The geometric-mean abundance for the most recent 10 years of annual spawner escapement estimates (2005–2014) is 6,418 natural-origin fish, with a standard error of 0.19. Natural-origin spawner abundance has increased relative to the levels reported in the last status review (Ford *et al.* 2011), driven largely by relatively high escapements in the most recent 3 years.

In recent years, naturally spawning fall-run Chinook salmon in the lower Snake River have been comprised of both natural-origin returns originating from naturally spawning parents, as well as naturally spawning hatchery-origin fish. These hatchery-origin fall-run Chinook salmon escaping upstream of Lower Granite Dam to spawn naturally are considered to be part of the listed ESU, representing returns from a supplementation program that releases juvenile fish in reaches above Lower Granite Dam, as well as from releases at Lyons Ferry Hatchery that have dispersed upstream.

Prior to the early 1980s, returns of Snake River fall-run Chinook salmon were likely predominately of natural-origin (NWFSC 2015). Natural return levels declined substantially following the completion of the Hells Canyon Dam Complex (1959–1967), and the construction of the lower Snake River dams (1962–1975). Based on extrapolations from sampling at Ice Harbor Dam (1977–1990), the Lyons Ferry Hatchery (1987-present), and at Lower Granite Dam (1990-present), hatchery strays made up an increasing proportion of returns to the Lower Mainstem Snake River population through the 1980s. Strays from out-planting hatchery-origin fall-run Chinook salmon from the Priest Rapids hatchery (an out-of-ESU stock derived from the middle Columbia River fall-run Chinook stocks) and from the Lyons Ferry Hatchery program (considered part of the Snake River fall-run Chinook ESU) were the dominant contributors to these returns through the 1980s. Estimated natural-origin returns of Snake River fall-run Chinook salmon reached a low of less than 100 fish in 1990. Since the 1990s the proportion of natural-origin spawners in the Snake River fall-run Chinook ESU has continued to decline. From 2010–2014, on average, 31 percent of spawners were of natural origin, compared to 37 percent (2005–2009), 38 percent (2000–2004), 58 percent (1995–1999), and 62 percent (1990–1994) in preceding years.

The Northwest Fisheries Science Center report (NWFSC 2015) estimated the recruit per spawner productivity for the extant population (1990–2009 brood years) to be 1.53, with a standard error of 0.18. The productivity analysis indicates that there have been years when abundance was high but productivity (recruits per spawner) fell below the replacement level, suggesting the potential influence of density-dependence, poor ocean conditions, or poor migration conditions. The report acknowledges that there is increasing statistical uncertainty surrounding the productivity estimate and it may not accurately reflect the true productivity of the current population. The true productivity of the extant population is masked by the recent high levels of naturally spawning hatchery fish. Survival improvements resulting from improved flow conditions for spawning and rearing and increased passage survival through the hydropower system may have increased productivity in recent years. Conversely, recent productivity levels may have decreased as a result of negative impacts of chronically high hatchery proportions across all major spawning areas.

The recent geometric-mean abundance of 6,418 natural spawners is higher than the Proposed Recovery Plan abundance criterion of 3,000 to 4,200 natural spawners (for *Scenario B—single population measured in the aggregate*). The recent geometric-mean abundance is also higher than the Technical Recovery Team viability criteria of 3,000 natural spawners, though the Technical Recovery Team criteria contemplated two viable populations. Recent productivity has been relatively high (approximately 1.53), but it is lower than the Proposed Recovery Plan criterion of 1.7, which includes a buffer to reflect the uncertainty associated with recent productivity estimates. The recent productivity estimate is at or near the Technical Recovery Team productivity criterion of 1.5; however, the Technical Recovery Team criteria contemplated two highly viable populations. The current risk rating from the Northwest Fisheries Science Center report (NWFSC 2015) for abundance/productivity is low risk (*i.e.,* between 1 and 5 percent probability of extinction over 100 years), and reflects uncertainty about whether recent increases in abundance (driven largely by relatively high escapements in the most recent 3 years) can be sustained over the long term. The Technical Recovery Team viability criteria, and all of the potential delisting scenarios in the Proposed Recovery Plan, would require that the extant population meet minimum requirements for "highly viable" status, which includes very low risk for abundance and productivity (ICTRT 2007; NMFS 2015; NMFS 2016). Recent abundance and productivity estimates (low risk) do not meet the Technical Recovery Team and proposed delisting scenarios criteria of very low risk (*i.e.,* less than 1 percent probability of extinction over 100 years) (NWFSC 2015; NMFS 2015, Appendix A). To achieve the necessary very low risk rating for abundance/productivity under a single-population recovery scenario, the extant population would need to demonstrate a 20-year geometric-mean productivity of 1.7 or greater (NMFS 2015). The extant population would need to exhibit increased productivity and/or a decrease in the year-to-year variability, while natural-origin abundance of the extant population would need to remain high (*i.e.,* a recent 10-year geometric-mean abundance greater than 4,200 natural-origin spawners). An increase in productivity could occur with a further reduction in mortalities across all life stages. Such an increase could be generated by actions such as a reduction in harvest impacts (particularly when natural-origin spawner return levels are low) and/or further improvements in juvenile survival during downstream migration (NWFSC 2015). Under a single-population recovery scenario with natural production emphasis areas, a very low risk rating for abundance/productivity could be achieved under current abundance levels if one or more major spawning aggregations exhibited relatively low levels of hatchery contributions to spawning (NMFS 2015). At present, there is no indication that any spawning areas are demonstrating lower proportions of hatchery-origin fish (NWFSC 2015).

The petitioners assert that the recent abundance and productivity data demonstrate that the Snake River fall-run Chinook ESU has met the Technical Recovery Team viability criteria. As noted above, we agree that recent geometric-mean abundance and productivity estimates for Snake River fall-run Chinook meet or exceed the Technical Recovery Team abundance/productivity criteria; however, the Technical Recovery Team viability criteria contemplate a recovery scenario involving two highly viable populations (*i.e.,* reestablishment of a viable Middle Snake River population above the Hells Canyon Dam Complex). The recent abundance and productivity estimates for the extant Lower Mainstem Snake River fall-run Chinook population fall short of the "very low" risk level that would be required under any of the proposed single-population recovery scenarios.

### *Spatial Structure and Diversity*

The extant Lower Mainstem Snake River fall-run Chinook population consists of a spatially complex set of five historical major spawning areas (ICTRT 2007), each of which consists of a set of relatively discrete spawning patches of varying size (NMFS 2015). Although annual redd surveys show that Snake River fall-run Chinook spawning occurs in all five of the historical major spawning areas, the inability to obtain carcass samples representative of the mainstem major spawning areas makes assessment of natural-origin spawner distributions difficult. Reconstruction of natural-origin spawners based on hatchery expansions and data from homing/dispersal studies on acclimated hatchery releases indicate that four out of the five major spawning areas are contributing to naturally produced returns (NMFS 2015).

The Northwest Fisheries Science Center report (NWFSC 2015) rated the spatial structure/diversity risk for the extant Snake River fall-run Chinook population as moderate risk. The moderate risk rating reflects observed changes in major life-history patterns, shifts in phenotypic traits, and high levels of genetic homogeneity in samples from natural-origin returns. In particular, the moderate risk rating reflects the relatively high proportion of within-population hatchery spawners in all major spawning areas and the lingering effects of previous high levels of out-of-ESU strays. The potential for selective pressure imposed by current hydropower operations and cumulative harvest impacts also contribute to the moderate risk rating.

For the extant Lower Mainstem Snake River population to achieve highly viable status with a high degree of certainty, the spatial structure/diversity rating needs to be at least low risk (NMFS 2015; ICTRT 2007). Achieving low risk for spatial structure/diversity for the Snake River fall-run Chinook ESU would either require re-establishing the extirpated population above Hells Canyon Dam, or that one or more major spawning areas in the Lower Mainstem Snake River population produce a significant level of natural-origin spawners with low influence from hatchery-origin spawners relative to the other major spawning areas. At present, given the widespread distribution of hatchery releases and hatchery-origin returns across all major spawning areas, and the lack of direct sampling of reach-specific spawner composition, there is no indication of a strong differential distribution of hatchery returns among major spawning areas.

The petitioners assert that natural production from the Clearwater River should be regarded as a new population, and as such the petitioners contend that the Technical Recovery Team's (ICTRT 2007) spatial-structure viability criterion of two populations has been satisfied. We do not agree with the petitioners that the Clearwater River represents a separate fall-run Chinook spawning population. The Technical Recovery Team defined an independent population as being isolated to such an extent that exchanges of individuals among the populations do not substantially affect the population dynamics or extinction risk of the independent populations over a 100-year time frame (McElhany *et al.* 2000; ICTRT 2003). This basic definition from McElhany *et al.* (2000) was also adopted by technical recovery teams in other west coast salmon recovery domains. The Technical Recovery Team evaluated genetic information, distances between spawning areas related to dispersal (straying), as well as life-history and morphological characteristics as indicators of reproductive isolation among populations. The Clearwater River was identified by the Technical Recovery Team as one of the five major spawning areas within the Lower Mainstem Snake River population. The inclusion of fall-run Chinook in the Clearwater River as part of the Lower Mainstem Snake River population is supported by the close distance between spawning areas, the ecological similarity among the spawning areas, the aggressive supplementation efforts in the Clearwater River using a common broodstock collected at Lower Granite Dam, and the strong contribution of naturally spawning hatchery fish from this common hatchery broodstock in all spawning areas (ICTRT 2003). The inclusion of natural production from the Clearwater River was considered as part of the spatial structure/diversity risk rating for the extant population. We also recognize that a high proportion of naturally produced fish originating from the Clearwater River are exhibiting yearling migration strategies due to the differing thermal regime in that major spawning area. The resulting contribution to overall phenotypic life-history diversity reduces the diversity risk to the ESU and was also considered in the spatial structure/diversity risk rating. However, this phenotypic life-history diversity, by itself, is not sufficient to warrant identifying fall-run Chinook in the Clearwater River as an independent population. There is no evidence of sufficient isolation between the fall-run Chinook in the Clearwater River and the other extant spawning areas in terms of discrete demographic patterns, differential straying/dispersal among the spawning areas, or genetic distinctiveness.

The petitioners disagree with our approach to evaluating diversity risk, and assert that the increases in the total number of spawners denote low risk to diversity. We disagree with the petitioners' interpretation of diversity. A low risk to diversity requires demonstration of patterns of phenotypic, genetic and life-history traits that provide for resilience across a range of environmental conditions ensuring long-term evolutionary potential (NMFS 2015; ICTRT 2007; McElhany *et al.* 2000). High levels of total spawner abundance alone do not indicate that essential diversity traits are being conserved.

### *Summary of Demographic Risks*

The Lower Mainstem Snake River fall-run Chinook salmon population is the only extant population remaining from an ESU that historically also included a population upstream of the current location of the Hells Canyon Dam Complex. The abundance of this remaining population has increased substantially in recent years, and the recent increases in natural-origin abundance are encouraging. Overall, the status of the Snake River fall-run Chinook ESU has improved compared to the time of listing and compared to prior status reviews. However, uncertainty remains regarding whether these abundance levels will be maintained, and improvements are needed in the species' productivity and diversity to achieve risk levels consistent with delisting (NWFSC 2015; NMFS 2015; NMFS 2016).

The overall current risk rating for the extant Lower Mainstem Snake River fall-run Chinook population is "viable." This viable risk rating for the Lower Mainstem Snake River population is based on a low risk rating for abundance/productivity (*i.e.,* 1 to 5 percent or less risk of extinction within 100 years), and a moderate risk rating for spatial structure/diversity (*i.e.,* 6 to 25 percent of extinction within 100 years) (NWFSC 2015; NMFS 2015, NMFS 2016). The Technical Recovery Team viability criteria, and all of the potential delisting scenarios in the Proposed Recovery Plan, would require that the extant population meet minimum requirements for "highly viable" status through a combination of very low risk for abundance and productivity, and low or very low risk for spatial structure and diversity (ICTRT 2007; NMFS 2015; NMFS 2016). As such, the current biological viability of the Snake River fall-run Chinook ESU falls short of the demographic risk levels necessary to support delisting.

## Summary of Factors Affecting the Species

As described above, section 4(a)(1) of the ESA and NMFS implementing regulations (50 CFR part 424) state that we must determine whether a species is endangered or threatened because of any one or a combination of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or man-made factors affecting its continued existence. We evaluated whether and the extent to which each of the foregoing factors contribute to the overall extinction risk of the Snake River fall-run Chinook ESU, and the findings are described in the 5-year Review Report (NMFS 2016). The section below summarizes our findings regarding the threats to the Snake River fall-run Chinook ESU. The petitioners' assertion that the ESU currently meets the statutory standards for delisting is addressed in the corresponding sections below.

### *(A) The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range*

Both hydropower and land-use activities have had significant impacts on habitat in the mainstem Snake River above Lower Granite Dam. Twelve dams have blocked and inundated habitat, impaired fish passage, altered flow and thermal regimes, and disrupted geomorphological processes in the mainstem Snake River. These impacts have resulted in the loss of historical habitat, altered migration timing, elevated dissolved gas levels, juvenile fish stranding and entrapment, and increased susceptibility to predation. In addition, land-use activities, including agriculture, grazing, resource extraction, and development, have adversely affected water quality and diminished habitat quality throughout the mainstem Snake River (NMFS 2016; NMFS 2015).

All spawning by Snake River fall-run Chinook is currently restricted to the area downstream of the Hells Canyon Dam Complex, where historically only limited spawning occurred (NMFS 2016; NMFS 2015). A large portion of the historical upriver habitat was lost following construction of Swan Falls Dam on the Snake River in 1901, but construction of the Hells Canyon Complex of dams in the late 1950s and 1960s blocked access to remaining upriver spawning areas, and resulted in the extirpation of one of two populations that historically constituted this ESU. The blocked habitat areas above the Hells Canyon Dam Complex historically were the most productive for Snake River fall-run Chinook.

Although successful reintroduction of fall-run Chinook salmon above the Hells Canyon Dam Complex would contribute to the recovery of the ESU, the mainstem habitat above the complex is currently too degraded to support anadromous fish. Agriculture, grazing, mining, timber harvest, and development activities have led to excessive nutrients, sedimentation, toxic pollutants, low dissolved oxygen, altered flows, and severely degraded water quality in the upper mainstem Snake River (NMFS 2016; NMFS 2015).

Below the Hells Canyon Dam Complex, one extant population in the ESU consists of a spatially complex set of five historical major spawning areas: Two reaches of the mainstem Snake River, and the lower mainstem reaches of the Grande Ronde River, the Clearwater River, and the Tucannon River. Habitat concerns in the fall-run Chinook spawning areas of the Clearwater River include elevated temperature, sediment, and nutrients, flow management, and toxic pollutants. The lower Clearwater River is highly influenced by operations at Dworshak Dam. Since 1992, cold water releases at Dworshak Dam have been managed to improve migration conditions (temperature and flow) in the lower Snake River (NMFS 2016; NMFS 2015). In the Lower Grande Ronde River mainstem, limiting factors include the lack of habitat quality and diversity, excess fine sediment, degraded riparian conditions, low summer flows, and poor water quality. The Tucannon River is limited primarily by sediment load and habitat quantity, with sediment impacts on fall-run Chinook egg incubation and fry colonization considered moderate to high in most reaches, primarily due to agricultural land uses (NMFS 2016; NMFS 2015).

Flow management of the Columbia River hydropower system affects fish density in the estuary and ocean, fish size and condition, the timing of ocean entry, and the growth and survival of fish during later fish life stages. In the estuary, flow management, diking and filling have reduced the availability of in-channel and off-channel habitat for extended rearing of subyearling juvenile Chinook, including components of the Snake River fall-run Chinook ESU. The impact of the loss of estuary habitat complexity likely differs between the fall-run Chinook subyearling and yearling life history-types. The yearlings often migrate through the estuary within about a week, while sub-yearlings can linger for up to several months in shallow nearshore estuary habitat areas (NMFS 2016; NMFS 2015).

The petitioners assert that there is no continued destruction, modification, or curtailment of the habitat or range of the Snake River fall-run Chinook ESU that justifies maintaining the species' ESA listing as threatened. The petitioners argue that the habitat changes are ultimately reflected in population status and trends, and that the recent high levels of abundance demonstrate that the effects of any historical habitat loss or degradation no longer constrain the population. However, as noted above, the historical loss of habitat due to the establishment of mainstem hydropower dams continues to represent a threat to the spatial structure and diversity of the ESU. Ongoing habitat concerns, described above, due to land-use practices and flow management result in degraded water and habitat quality in the area above the Hells Canyon Dam Complex, the spawning area in the lower Clearwater River, and in the other spawning areas of the Lower Mainstem Snake River population (NMFS 2016; NMFS 2015). Additionally, flow management and the loss of Columbia River estuarine habitat have reduced the availability of rearing habitat for migrating juvenile Snake River fall-run Chinook (NMFS 2016; NMFS 2015). As such, we disagree with the petitioners' assertion that historical habitat loss and degradation no longer constrain the population, and furthermore, we find that the continued degradation of habitat poses a threat to the Snake River fall-run Chinook ESU.

If the recovery of the Snake River fall-run Chinook ESU is to include reestablishment of a spawning population above the Hells Canyon Dam Complex, the mainstem habitat above the complex is currently too degraded to support anadromous fish. With respect to the extant Lower Mainstem Snake River population, there is considerable uncertainty as to whether current habitat conditions are sufficient for the population to improve to, and be sustained at, a highly viable level. The Northwest Fisheries Science Center's productivity analysis (NWFSC 2015) suggests the potential influence of density dependence, poor ocean conditions, or poor migration conditions. The lack of major spawning aggregations with low levels of hatchery influence makes it difficult to evaluate the sufficiency of lower mainstem habitat conditions. It is unclear if current habitat conditions can sustain the recent high levels of adult returns and provide resiliency during periods of poor marine or freshwater survival.

Habitat conditions have improved since the last status review (Ford *et al.* 2011); however, habitat concerns remain throughout the Snake River Basin, particularly in regards to mainstem and tributary stream flows, floodplain management, and elevated water temperatures. We conclude that historical habitat loss, and continued degradation and modification of habitat below the Hells Canyon Dam Complex, continue to pose a risk to, and limit the recovery of, the Snake River fall-run Chinook ESU. However, the Snake River 5-year Review Report (NMFS 2016) and the Proposed Recovery Plan (NMFS 2015) outline several opportunities for habitat improvements to provide meaningful improvements in ESU viability.

### *(B) Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

Snake River fall-run Chinook are incidentally caught by both ocean and in-river fisheries, and harvest in these fisheries has the potential to produce selective pressure on migration timing, maturation timing, and size-at-age. No direct estimates are available of the degree of selective pressure caused by ocean harvest impacts on natural-origin Snake River fall-run Chinook. However, ocean exploitation rates based on coded wire tag (CWT) results for sub-yearling releases of Lyons Ferry Hatchery fish are used as surrogates in fisheries management modeling (NMFS 2015, Appendix A). Average annual ocean exploitation rates vary by age, increasing from relatively low levels on age-2 fish to approximately 25 percent on age-4 and age-5 fish (NMFS 2015, Appendix A). Based on the current timing and distribution of the fisheries with CWT recoveries, ocean harvest of Snake River fall-run Chinook salmon is assumed to impact both maturing and immature fish (NMFS 2015, Appendix A). As a result, the cumulative impact of ocean harvest is higher on components of the run maturing at older ages. Snake River fall-run Chinook salmon are also harvested by in-river fisheries, largely in mainstem Columbia River fisheries on aggregate fall-run Chinook salmon runs, including the highly productive Hanford Reach stock. Exploitation rates of in-river fisheries also increase with age-at-return.

Fishery impacts from ocean and in-river fisheries on Snake River fall-run Chinook viability are controlled through harvest agreements (*e.g.,* the Pacific Salmon Treaty, May 2008 *U.S.* v. *OR* Management Agreement). These agreements, on average, have reduced impacts of fisheries on Snake River fall-run Chinook. Year-specific acceptable harvest rates are determined by an abundance-based framework that constrains the aggregate of ocean and in-river fisheries in years of low abundance, and allows for increased harvest opportunity in years of high abundance. Information available since the 2011 status review indicates that combined ocean and in-river harvest rates have remained at approximately 33 percent annually for Snake River fall-run Chinook (NMFS 2016).

Snake River fall-run Chinook are also taken through scientific research activities. Robust and multifaceted research and monitoring efforts are underway in the Snake River Basin to inform analyses of habitat status and trends, fish population status and trends, population response to various habitat conditions and restoration treatment types, and the effectiveness of various types of actions in addressing specific limiting factors for all of the listed Snake River salmonid species. Given the mounting demand for take under various research and monitoring initiatives, it is likely that these activities are having an increasing negative impact on the Snake River species, including Snake River fall-run Chinook. However, these research and monitoring efforts are closely scrutinized through ESA section 10(a)(1)(A) and 4(d) research-permit approvals to ensure that such activities do not operate to the disadvantage of the species. The total mortality authorized for all scientific research permits on natural-origin adult Snake River fall-run Chinook is approximately 0.01 percent of the recent 10-year geometric-mean abundance.

The petitioners argue that there is no evidence to conclude that overutilization is, or has been, a threat to the ESU. We conclude that the risk to the persistence of the ESU due to overutilization remains essentially unchanged since the last status review (Ford *et al.* 2011), and does not pose a threat to, nor limit the recovery potential of, the Snake River fall-run Chinook ESU. Accordingly, we do not address petitioners' arguments regarding this factor.

### *(C) Disease or Predation*

Predation, competition, other ecological interactions, and disease affect the viability of Snake River fall-run Chinook salmon by reducing abundance, productivity, and diversity. Predation rates by both fish and birds on subyearling Snake River fall-run Chinook are a concern during the smolt outmigration. Northern pikeminnow, smallmouth bass and avian predators selectively target subyearling outmigrants relative to larger yearling migrants. Consequently, mortality due to this predation influences species diversity, as well as abundance and productivity. Predation by sea lions and other marine mammals has less of an effect on species viability because most adult Snake River fall-run Chinook are not migrating through the lower Columbia River in the spring when the marine mammals are most abundant.

Currently, it is not clear whether or how density-dependent habitat effects, and competition with hatchery-origin fish for limited habitat, are influencing natural-origin production. It is also unclear whether competition between adult Snake River fall-run Chinook salmon and non-native species, such as shad, in the mainstem migration corridor and estuary is affecting species viability. Additional research is needed to understand the potential significance of this risk.

Disease rates over the past 5 years are believed to be consistent with the previous review period. Climate change impacts such as increasing temperature may increase susceptibility to diseases. The disease rates have continued to fluctuate within the range observed in past review periods and are not expected to affect the extinction risk of the Snake River fall-run Chinook ESU.

We conclude that the current levels of disease, predation, competition and other ecological interactions are not a threat to the persistence or recovery potential of the Snake River fall-run Chinook ESU (NMFS 2016). Because we conclude that this factor is not currently limiting species recovery, we do not address the petitioners' arguments regarding this factor.

### *(D) Inadequacy of Existing Regulatory Mechanisms*

Various Federal, state, county and tribal regulatory mechanisms are in place to reduce habitat loss and degradation caused by human land-use and development, as well as reduce risks due to the hydropower system, harvest and hatchery impacts, and predation. New information available since the last status review (Ford *et al.* 2011) indicates that the adequacy of some regulatory mechanisms has improved. Noteworthy improvements in specific regulatory mechanisms are summarized in the Snake River 5-year review report (NMFS 2016).

There are a number of remaining concerns regarding existing regulatory mechanisms, including:

- Lack of documentation or analysis of the effectiveness of land-use regulatory mechanisms and land-use management programs.
- Revised land-use regulations to allow development on rural lands (Adoption of Measure 37, with modification by Measure 49, in Oregon).
- Water rights allocation and administration issues in Oregon and Idaho.
- Continued implementation of management actions in some areas, which negatively impacts riparian areas.
- Lack of implementation and documented impacts or improvements of completed Total Maximum Daily Load standards (TMDLs) in Oregon.
- Increased mining and mineral extraction activities. In Idaho, mining still takes place under the 1872 Mining Law, giving agencies limited discretion in how they regulate it. Issues related to mining threats in the Snake River Basin have expanded since the last status review.
- Effects of commonly applied chemical insecticides, herbicides, and fungicides which are authorized for use per the Environmental Protection Agency label criteria. All West Coast salmonids are identified in a series of NMFS section 7 consultations as jeopardized by at least one of the analyzed chemicals; most are identified as being jeopardized by many of the chemicals. In 2014, a jeopardy biological opinion was issued for Idaho and, in 2012, for Oregon, regarding the respective state's water quality standards for toxic pollutants (NMFS 2016). This will result in promulgation of new standards for mercury, selenium, arsenic, copper and cyanide in Idaho; and for cadmium, copper, ammonia, and aluminum in Oregon.
- Development within floodplains, which continues to be a regional concern. This frequently results in stream bank alteration, stream bank armoring, and stream channel alteration projects to protect private property that do not allow streams to function properly and result in degraded habitat. It is important to note that, where it has been analyzed, floodplain development that occurs consistently with the National Flood Insurance Program's minimum criteria has been found to jeopardize 18 species of West Coast salmonids.
- The need for future Forest Service Plan reviews to continue to address how forest practices can support recovery of salmon and steelhead.

The risk to the species' persistence because of the inadequacy of existing regulatory mechanisms has decreased slightly, based on the improvements noted in the Snake River 5-year review report (NMFS 2016). The petitioners assert that the increases in abundance for Snake River fall-run Chinook demonstrate that inadequacy of regulatory mechanisms cannot be a threat to Snake River fall-run Chinook. We do not agree with the petitioners' argument that we should evaluate this statutory factor based solely on the abundance of the ESU. As noted above, we identified historical habitat loss and continued habitat degradation and modification below the Hells Canyon Dam Complex as ongoing threats to the Snake River fall-fun Chinook ESU. These ongoing threats could be ameliorated by strengthening existing regulatory mechanisms (NMFS 2016). As such, we conclude that the inadequacy of existing regulatory mechanisms continues to pose a threat to the persistence and limit the recovery potential of the Snake River fall-run Chinook ESU.

### *(E) Other Natural or Man-Made Factors Affecting Its Continued Existence*

The petitioners note that our final rule listing the Snake River fall-run Chinook ESU identified drought as a factor that may have contributed to reduced productivity, and argue that drought is no longer a factor affecting the species due to flow regulation by the Federal Columbia River Power System. Our current status review (NMFS 2016) for the species does not identify drought as a factor affecting the species' continued existence. However, we have identified other factors in this category that present a risk to the species' future persistence.

### *Climate Change*

The potential impacts of climate change on the extinction risk and recovery potential of the Snake River fall-run Chinook ESU are described in more detail in the Proposed Recovery Plan (NMFS 2015). Climate experts predict physical changes to rivers and streams in the Columbia Basin that include: Warmer atmospheric temperatures resulting in more precipitation falling as rain rather than snow; diminished snow pack resulting in altered stream flow volume and timing; increased winter flooding; lower late summer flows; and a continued rise in stream temperatures. These changes in air temperatures, river temperatures, and river flows are expected to cause changes in salmon and steelhead distribution, behavior, growth, and survival, in general. However, the magnitude and timing of these changes, and specific effects on Snake River fall-run Chinook salmon remain unclear.

Climate change and increased water temperatures in the mainstem lower Snake River could cause delays in adult migration and spawn timing, increased adult mortality, and reduced spawning success. Delays in adult migration and spawn timing in turn could cause delays in fry emergence and dispersal and delayed smolt outmigration, although it is also possible that increased overwintering temperature could reduce the impacts on emergence timing. If delays in emergence timing are long (*e.g.,* weeks) then the timing of smolt outmigration may be altered. This could result in a marine transition potentially poorly timed with favorable ocean conditions, and possibly increase exposure to predators. Warmer temperatures will increase metabolism, which may increase or decrease juvenile growth rates and survival, depending upon availability of food. Increases in water temperatures in Snake and Columbia River reservoirs could also increase predation on juveniles by warm-water fish species, and increase food competition with other species such as shad. Reduced flows in late spring and summer may lead to delayed outmigration of juveniles and higher mortality.

The effects of climate change on Snake River fall-run Chinook in the estuary and plume may include a reduction in the quantity and quality of rearing habitat, and an altered distribution of salmonid prey and predators. The effects of climate change in marine environments include increased ocean temperature, increased stratification of the water column, changes in the intensity and timing of coastal upwelling, and ocean acidification. Modeling studies that explore the marine ecological impacts of climate change have concluded that salmon abundances in the Pacific Northwest and Alaska are likely to be reduced. Uncertainty regarding the long-term impacts of climate change and the ability of Snake River fall-run Chinook to successfully adapt to an evolving ecosystem represent risks to the species' persistence and recovery potential.

### *Hatchery Fish*

Snake River fall-run Chinook salmon hatchery production has increased and so have hatchery-origin returns. Considerable uncertainty remains about the effect of the Snake River fall-run Chinook hatchery programs on the Lower Mainstem Snake River population. Much of this uncertainty reflects the fact that the remaining population is very difficult to study because of its geographic extent, habitat, and logistical issues. This uncertainty, however, is more important in the case of Snake River fall-run Chinook than in many other ESA-listed salmonid populations because the current population is the only extant population in the ESU, and it must reach a highly viable level under any scenario for the ESU to be considered recovered (ICTRT 2007; NMFS 2015). As noted above in the Evaluation of Demographic Risks, the true productivity of the extant population is masked by the recent high levels of naturally spawning hatchery fish, and this high proportion of within-population hatchery spawners in all major spawning areas contributes to the moderate risk rating in spatial structure and diversity.

We conclude that, based on the high level of uncertainty associated with projecting the impacts of climate change and resolving the influence of hatchery production, other natural or man-made factors represent a threat to the persistence and recovery potential of the Snake River fall-run Chinook.

## **Efforts Being Made To Protect the Species**

Section 4(b)(1)(A) of the ESA requires the Secretary to make listing determinations solely on the basis of the best scientific and commercial data available after taking into account efforts being made to protect a species. Therefore, in making listing determinations, we first assess ESU extinction risk and identify factors that have led to its decline. Then we assess existing efforts being made to protect the species to determine if those measures ameliorate the threats or section 4(a)(1) factors affecting the ESU.

### *Summary of Protective Efforts*

Previous listing determinations have described ongoing protective efforts that are likely to promote the conservation of ESA-listed salmonids, including the Snake River fall-run Chinook. In the Snake River Basin 5-year Review Report (NMFS 2016), we note the many habitat, hydropower, hatchery, and harvest improvements that occurred in the past 5 years. We are currently working with our Federal, state, and tribal co-managers to develop monitoring programs, databases, and analytical tools to assist us in tracking, monitoring, and assessing the effectiveness of these improvements.

The abundance of natural-origin Snake River fall-run Chinook in the one extant population has increased substantially since listing. We attribute this increase to a combination of actions that improved survivals through the hydropower system, reduced harvest, and increased production through hatchery supplementation. Key protective actions related to Snake River fall-run Chinook mainstem and tributary habitat include (NMFS 2015; NMFS 2016):

- Continued implementation of Idaho Power Company's fall Chinook salmon spawning program to enhance and maintain suitable spawning and incubation conditions.

- Continued implementation of the FCRPS Biological Opinion, including hydropower system operations such as cool-water releases from Dworshak Dam to maintain adequate migration and rearing conditions in the lower Snake River, summer flow augmentation and summer spill at multiple projects to maintain migration and passage conditions, and operations at Lower Granite Dam to address adult passage blockages caused by warm surface waters entering the fish ladders.
- Continued implementation of Lower Snake River Programmatic Sediment Management Plan measures to reduce impacts of reservoir and river channel dredging and disposal on Snake River fall-run Chinook.
- Continued implementation of recovery plan actions in tributary and lower mainstem habitats to maintain and improve spawning and rearing potential for Snake River fall-run Chinook (Although these actions are generally focused on Snake River spring/summer Chinook salmon and steelhead and, therefore, located above fall-run Chinook spawning and rearing habitats, the actions have cumulative beneficial effects on downstream habitats).
- Large-scale restoration projects in the Tucannon River, which have been highly effective in reestablishing channel functions related to temperature, floodplain connectivity, channel morphology, and habitat complexity. These key protective efforts were largely possible thanks to the persistence and support from the Snake River Salmon Recovery Board, Washington Department of Fish and Wildlife, and local restoration partners.

Programs such as these are critical if we are to address the threats and limiting factors facing the ESU to improve its viability. However, at this time, we conclude that these and other protective efforts are insufficient to ameliorate the threats facing the Snake River fall-run Chinook ESU to the extent where delisting would be warranted.

## Final Determination

The petitioners' arguments that the Snake River fall-run Chinook ESU should be delisted are based in large measure upon the prevalence of hatchery-produced fish and their view that we impermissibly emphasize the naturally spawned component of the ESU in our viability assessments. We disagree and conclude that, consistent with the Hatchery Listing Policy and the Ninth Circuit Court of Appeals ruling in *Trout Unlimited* v. *Lohn,* hatchery fish should be evaluated in the context of their contributions to the conservation of the naturally spawned population(s).

As noted above (see *Viability Criteria and Recovery Planning*), the Technical Recovery Team viability criteria (ICTRT 2007) and the proposed recovery scenarios articulated in the Proposed Recovery Plan (NMFS 2015) provide useful guides for evaluating the conditions that must be met for the delisting of Snake River fall-run Chinook to be warranted. All the viability criteria and proposed recovery scenarios conclude that the extant Lower Mainstem Snake River population must be at least highly viable. The Northwest Fisheries Science Center report (NWFSC 2015) concluded that the Lower Mainstem Snake River population is currently viable, but is less than highly viable. In other words, the current risk level of the Snake River fall-run Chinook ESU does not meet the status described in the Technical Recovery Team report and the Proposed Recovery Plan as necessary for the recovery of the ESU.

Additionally, based on our evaluation of the five section 4(a)(1) factors, above, we conclude that historical habitat loss, continued degradation and modification of habitat, and the inadequacy of regulatory mechanisms continue to pose threats to, and limit the recovery potential of, the Snake River fall-run Chinook ESU. Disease, predation, and overutilization do not pose threats to the ESU at this time. We also find that the high levels of uncertainty associated with projecting the effects of other natural or man-made factors affecting the continued existence of the ESU represent a threat to the persistence and recovery potential of the Snake River fall-run Chinook ESU. This latter uncertainty, particularly that conferred by the prevalence and broad distribution of hatchery-origin fish across all major spawning areas, needs to be addressed if we are to be able to assess the viability of the extant Lower Mainstem Snake River population with sufficient certainty. After reviewing efforts being made to protect salmonids and their habitat in the Snake River Basin, we conclude that these efforts are insufficient to ameliorate the threats facing the Snake River fall-run Chinook ESU to the point where the species would warrant delisting.

Based on our review of the species' viability, the five section 4(a)(1) factors, and efforts being made to protect the species, we conclude that the Snake River fall-run Chinook ESU is likely to become an endangered species throughout all or a significant portion of its range in the foreseeable future. We conclude that the petitioned action to delist the Snake River fall-run Chinook ESU is not warranted at this time, and as such it shall retain its status as a threatened species under the ESA.

## References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

## Authority

The Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 19, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2016–12453 Filed 5–25–16; 8:45 am]

BILLING CODE 3510–22–P

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# DEPARTMENT OF COMMERCE

## United States Patent and Trademark Office

## Submission for OMB Review; Comment Request; "Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures"

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* United States Patent and Trademark Office, Commerce.

*Title:* Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

*OMB Control Number:* 0651–0024.

*Form Number(s):*

- PTO/SB/93.

*Type of Request:* Regular.

*Number of Respondents:* 27,200.

*Estimated Time per Response:* The USPTO estimates that it will take approximately 6 minutes (0.10 hours) to 6 hours to complete a single item in this collection. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

*Burden Hours:* 152,285 hours.

*Cost Burden:* $1,815,457.50.

*Needs and Uses:* Patent applications that contain nucleotide and/or amino acid sequence disclosures must include a copy of the sequence listing in accordance with the requirements in 37 CFR 1.821–1.825. Applicants submit copies of sequence listings for both U.S.

and international biotechnology patent applications. The USPTO uses the sequence listings during the examination process to determine the patentability of the associated patent application. The USPTO also uses the sequence listings to support publication of patent applications and issued patents. Sequence listings are searchable after publication.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through *reginfo.gov.* Follow the instructions on the Web site to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include "0651–0024 copy request" in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before June 27, 2016 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: May 20, 2016.

**Marcie Lovett,**

*Records Management Division Director, OCIO, United States Patent and Trademark Office.*

[FR Doc. 2016–12477 Filed 5–25–16; 8:45 am]

**BILLING CODE 3510–16–P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Revised Non-Foreign Overseas Per Diem Rates

**AGENCY:** Defense Travel Management Office, DoD.

**ACTION:** Notice of revised non-foreign overseas per diem rates.

**SUMMARY:** The Defense Travel Management Office is publishing Civilian Personnel Per Diem Bulletin Number 303. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States when applicable. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 303 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

**DATES:** *Effective Date:* June 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sonia Malik, 571–372–1276.

**SUPPLEMENTARY INFORMATION:** This document gives notice of revisions in per diem rates prescribed by the Defense Travel Management Office for non-foreign areas outside the contiguous United States. It supersedes Civilian Personnel Per Diem Bulletin Number 302. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. Civilian Bulletin 303 includes updated rates for Alaska.

Dated: May 23, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**BILLING CODE 5001–06–P**

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
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| **ALASKA** | | | | | | |
| [OTHER] | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| ADAK | | | | | | |
| 10/01 - 04/30 | 150 | | 51 | | 201 | 03/01/2016 |
| 05/01 - 09/30 | 192 | | 51 | | 243 | 03/01/2016 |
| ANCHORAGE [INCL NAV RES] | | | | | | |
| 05/16 - 09/30 | 339 | | 114 | | 453 | 03/01/2016 |
| 10/01 - 05/15 | 99 | | 114 | | 213 | 03/01/2016 |
| BARROW | | | | | | |
| 01/01 - 12/31 | 205 | | 96 | | 301 | 03/01/2016 |
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| 01/01 - 12/31 | 175 | | 79 | | 254 | 03/01/2015 |
| CAPE LISBURNE LRRS | | | | | | |
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| CAPE NEWENHAM LRRS | | | | | | |
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| COLDFOOT | | | | | | |
| 01/01 - 12/31 | 165 | | 70 | | 235 | 10/01/2006 |
| COPPER CENTER | | | | | | |
| 05/15 - 09/15 | 150 | | 86 | | 236 | 03/01/2016 |

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| 09/16 - 05/14 | 115 | | 86 | | 201 | 03/01/2016 |
| CORDOVA | | | | | | |
| 01/01 - 12/31 | 140 | | 94 | | 234 | 03/01/2016 |
| CRAIG | | | | | | |
| 04/01 - 09/30 | 151 | | 74 | | 225 | 03/01/2016 |
| 10/01 - 03/31 | 88 | | 74 | | 162 | 03/01/2016 |
| DEADHORSE | | | | | | |
| 01/01 - 12/31 | 170 | | 51 | | 221 | 03/01/2016 |
| DELTA JUNCTION | | | | | | |
| 05/01 - 09/30 | 169 | | 60 | | 229 | 03/01/2015 |
| 10/01 - 04/30 | 139 | | 57 | | 196 | 03/01/2015 |
| DENALI NATIONAL PARK | | | | | | |
| 06/01 - 08/31 | 185 | | 80 | | 265 | 03/01/2016 |
| 09/01 - 05/31 | 139 | | 80 | | 219 | 03/01/2016 |
| DILLINGHAM | | | | | | |
| 05/01 - 10/15 | 350 | | 85 | | 435 | 03/01/2016 |
| 10/16 - 04/30 | 220 | | 85 | | 305 | 03/01/2016 |
| DUTCH HARBOR-UNALASKA | | | | | | |
| 01/01 - 12/31 | 142 | | 77 | | 219 | 03/01/2016 |
| EARECKSON AIR STATION | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| EIELSON AFB | | | | | | |
| 05/15 - 09/15 | 154 | | 78 | | 232 | 03/01/2016 |
| 09/16 - 05/14 | 75 | | 78 | | 153 | 03/01/2016 |
| ELFIN COVE | | | | | | |
| 01/01 - 12/31 | 275 | | 51 | | 326 | 03/01/2016 |
| ELMENDORF AFB | | | | | | |
| 05/16 - 09/30 | 339 | | 114 | | 453 | 03/01/2016 |
| 10/01 - 05/15 | 99 | | 114 | | 213 | 03/01/2016 |
| FAIRBANKS | | | | | | |
| 05/15 - 09/15 | 154 | | 78 | | 232 | 03/01/2016 |
| 09/16 - 05/14 | 75 | | 78 | | 153 | 03/01/2016 |
| FOOTLOOSE | | | | | | |
| 01/01 - 12/31 | 175 | | 18 | | 193 | 10/01/2002 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| FORT YUKON LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| FT. GREELY | | | | | | |
| 10/01 - 04/30 | 139 | | 57 | | 196 | 03/01/2015 |
| 05/01 - 09/30 | 169 | | 60 | | 229 | 03/01/2015 |
| FT. RICHARDSON | | | | | | |
| 05/16 - 09/30 | 339 | | 114 | | 453 | 03/01/2016 |
| 10/01 - 05/15 | 99 | | 114 | | 213 | 03/01/2016 |
| FT. WAINWRIGHT | | | | | | |
| 05/15 - 09/15 | 154 | | 78 | | 232 | 03/01/2016 |
| 09/16 - 05/14 | 75 | | 78 | | 153 | 03/01/2016 |
| GAMBELL | | | | | | |
| 01/01 - 12/31 | 133 | | 51 | | 184 | 03/01/2016 |
| GLENNALLEN | | | | | | |
| 05/15 - 09/15 | 150 | | 86 | | 236 | 03/01/2016 |
| 09/16 - 05/14 | 115 | | 86 | | 201 | 03/01/2016 |
| HAINES | | | | | | |
| 01/01 - 12/31 | 107 | | 101 | | 208 | 01/01/2011 |
| HEALY | | | | | | |
| 09/01 - 05/31 | 139 | | 80 | | 219 | 03/01/2016 |
| 06/01 - 08/31 | 185 | | 80 | | 265 | 03/01/2016 |
| HOMER | | | | | | |
| 05/01 - 09/30 | 194 | | 90 | | 284 | 03/01/2016 |
| 10/01 - 04/30 | 89 | | 90 | | 179 | 03/01/2016 |
| JB ELMENDORF-RICHARDSON | | | | | | |
| 05/16 - 09/30 | 339 | | 114 | | 453 | 03/01/2016 |
| 10/01 - 05/15 | 99 | | 114 | | 213 | 03/01/2016 |
| JUNEAU | | | | | | |
| 05/01 - 09/30 | 159 | | 88 | | 247 | 03/01/2016 |
| 10/01 - 04/30 | 125 | | 88 | | 213 | 03/01/2016 |
| KAKTOVIK | | | | | | |
| 01/01 - 12/31 | 165 | | 86 | | 251 | 10/01/2002 |
| KAVIK CAMP | | | | | | |
| 01/01 - 12/31 | 250 | | 51 | | 301 | 03/01/2016 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| KENAI-SOLDOTNA | | | | | | |
| 11/01 - 04/30 | 84 | | 106 | | 190 | 03/01/2016 |
| 05/01 - 10/31 | 179 | | 106 | | 285 | 03/01/2016 |
| KENNICOTT | | | | | | |
| 01/01 - 12/31 | 285 | | 85 | | 370 | 03/01/2016 |
| KETCHIKAN | | | | | | |
| 10/02 - 03/31 | 99 | | 97 | | 196 | 03/01/2016 |
| 04/01 - 10/01 | 250 | | 97 | | 347 | 03/01/2016 |
| KING SALMON | | | | | | |
| 05/01 - 10/01 | 225 | | 91 | | 316 | 10/01/2002 |
| 10/02 - 04/30 | 125 | | 81 | | 206 | 10/01/2002 |
| KING SALMON LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| KLAWOCK | | | | | | |
| 04/01 - 09/30 | 151 | | 74 | | 225 | 03/01/2016 |
| 10/01 - 03/31 | 88 | | 74 | | 162 | 03/01/2016 |
| KODIAK | | | | | | |
| 05/01 - 09/30 | 157 | | 81 | | 238 | 03/01/2016 |
| 10/01 - 04/30 | 100 | | 81 | | 181 | 03/01/2016 |
| KOTZEBUE | | | | | | |
| 01/01 - 12/31 | 219 | | 137 | | 356 | 06/01/2016 |
| KULIS AGS | | | | | | |
| 10/01 - 05/15 | 99 | | 114 | | 213 | 03/01/2016 |
| 05/16 - 09/30 | 339 | | 114 | | 453 | 03/01/2016 |
| MCCARTHY | | | | | | |
| 01/01 - 12/31 | 285 | | 85 | | 370 | 03/01/2016 |
| MCGRATH | | | | | | |
| 01/01 - 12/31 | 160 | | 65 | | 225 | 03/01/2016 |
| MURPHY DOME | | | | | | |
| 05/15 - 09/15 | 154 | | 78 | | 232 | 03/01/2016 |
| 09/16 - 05/14 | 75 | | 78 | | 153 | 03/01/2016 |
| NOME | | | | | | |
| 05/01 - 09/30 | 200 | | 116 | | 316 | 06/01/2016 |
| 10/01 - 04/30 | 175 | | 116 | | 291 | 06/01/2016 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| NUIQSUT | | | | | | |
| 01/01 - 12/31 | 234 | | 51 | | 285 | 03/01/2016 |
| OLIKTOK LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| PETERSBURG | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| POINT BARROW LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| POINT HOPE | | | | | | |
| 01/01 - 12/31 | 175 | | 85 | | 260 | 03/01/2016 |
| POINT LAY | | | | | | |
| 01/01 - 12/31 | 255 | | 51 | | 306 | 03/01/2016 |
| POINT LAY LRRS | | | | | | |
| 01/01 - 12/31 | 255 | | 51 | | 306 | 03/01/2016 |
| POINT LONELY LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| PORT ALEXANDER | | | | | | |
| 02/01 - 08/31 | 210 | | 51 | | 261 | 03/01/2016 |
| 09/01 - 01/31 | 165 | | 51 | | 216 | 03/01/2016 |
| PORT ALSWORTH | | | | | | |
| 01/01 - 12/31 | 135 | | 88 | | 223 | 10/01/2002 |
| PRUDHOE BAY | | | | | | |
| 01/01 - 12/31 | 170 | | 51 | | 221 | 03/01/2016 |
| SELDOVIA | | | | | | |
| 05/01 - 09/30 | 194 | | 90 | | 284 | 03/01/2016 |
| 10/01 - 04/30 | 89 | | 90 | | 179 | 03/01/2016 |
| SEWARD | | | | | | |
| 10/01 - 04/30 | 99 | | 84 | | 183 | 03/01/2016 |
| 05/01 - 09/30 | 298 | | 84 | | 382 | 03/01/2016 |
| SITKA-MT. EDGECUMBE | | | | | | |
| 01/01 - 12/31 | 200 | | 98 | | 298 | 03/01/2016 |
| SKAGWAY | | | | | | |
| 04/01 - 10/01 | 250 | | 97 | | 347 | 03/01/2016 |
| 10/02 - 03/31 | 99 | | 97 | | 196 | 03/01/2016 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| SLANA | | | | | | |
| 05/01 - 09/30 | 139 | | 55 | | 194 | 02/01/2005 |
| 10/01 - 04/30 | 99 | | 55 | | 154 | 02/01/2005 |
| SPARREVOHN LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| SPRUCE CAPE | | | | | | |
| 05/01 - 09/30 | 157 | | 81 | | 238 | 03/01/2016 |
| 10/01 - 04/30 | 100 | | 81 | | 181 | 03/01/2016 |
| ST. GEORGE | | | | | | |
| 01/01 - 12/31 | 220 | | 51 | | 271 | 03/01/2016 |
| TALKEETNA | | | | | | |
| 01/01 - 12/31 | 100 | | 89 | | 189 | 10/01/2002 |
| TANANA | | | | | | |
| 05/01 - 09/30 | 200 | | 116 | | 316 | 06/01/2016 |
| 10/01 - 04/30 | 175 | | 116 | | 291 | 06/01/2016 |
| TATALINA LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| TIN CITY LRRS | | | | | | |
| 01/01 - 12/31 | 120 | | 76 | | 196 | 03/01/2016 |
| TOK | | | | | | |
| 05/15 - 09/30 | 95 | | 83 | | 178 | 03/01/2016 |
| 10/01 - 05/14 | 73 | | 83 | | 156 | 03/01/2016 |
| UMIAT | | | | | | |
| 01/01 - 12/31 | 350 | | 51 | | 401 | 03/01/2016 |
| VALDEZ | | | | | | |
| 05/16 - 09/16 | 169 | | 89 | | 258 | 03/01/2016 |
| 09/17 - 05/15 | 89 | | 89 | | 178 | 03/01/2016 |
| WAINWRIGHT | | | | | | |
| 01/01 - 12/31 | 175 | | 83 | | 258 | 01/01/2011 |
| WASILLA | | | | | | |
| 05/01 - 09/30 | 170 | | 105 | | 275 | 03/01/2016 |
| 10/01 - 04/30 | 99 | | 105 | | 204 | 03/01/2016 |
| WRANGELL | | | | | | |
| 04/01 - 10/01 | 250 | | 97 | | 347 | 03/01/2016 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| 10/02 - 03/31 | 99 | | 97 | | 196 | 03/01/2016 |
| YAKUTAT | | | | | | |
| 01/01 - 12/31 | 105 | | 94 | | 199 | 01/01/2011 |
| **AMERICAN SAMOA** | | | | | | |
| AMERICAN SAMOA | | | | | | |
| 01/01 - 12/31 | 139 | | 69 | | 208 | 06/01/2015 |
| PAGO PAGO | | | | | | |
| 01/01 - 12/31 | 139 | | 69 | | 208 | 12/01/2015 |
| **GUAM** | | | | | | |
| GUAM (INCL ALL MIL INSTAL) | | | | | | |
| 01/01 - 12/31 | 159 | | 87 | | 246 | 07/01/2015 |
| JOINT REGION MARIANAS (ANDERSEN) | | | | | | |
| 01/01 - 12/31 | 159 | | 87 | | 246 | 07/01/2015 |
| JOINT REGION MARIANAS (NAVAL BASE) | | | | | | |
| 01/01 - 12/31 | 159 | | 87 | | 246 | 07/01/2015 |
| TAMUNING | | | | | | |
| 01/01 - 12/31 | 159 | | 87 | | 246 | 12/01/2015 |
| **HAWAII** | | | | | | |
| [OTHER] | | | | | | |
| 01/01 - 12/31 | 189 | | 103 | | 292 | 04/01/2016 |
| CAMP H M SMITH | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| EASTPAC NAVAL COMP TELE AREA | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| FT. DERUSSEY | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| FT. SHAFTER | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| HICKAM AFB | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| HILO | | | | | | |
| 01/01 - 12/31 | 189 | | 103 | | 292 | 04/01/2016 |
| HONOLULU | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| ISLE OF HAWAII: HILO | | | | | | |
| 01/01 - 12/31 | 189 | | 103 | | 292 | 04/01/2016 |
| ISLE OF HAWAII: OTHER | | | | | | |
| 01/01 - 12/31 | 189 | | 148 | | 337 | 04/01/2016 |
| ISLE OF KAUAI | | | | | | |
| 01/01 - 12/31 | 325 | | 135 | | 460 | 04/01/2016 |
| ISLE OF MAUI | | | | | | |
| 01/01 - 12/31 | 259 | | 134 | | 393 | 04/01/2016 |
| ISLE OF OAHU | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| JB PEARL HARBOR-HICKAM | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| KAPOLEI | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| KEKAHA PACIFIC MISSILE RANGE FAC | | | | | | |
| 01/01 - 12/31 | 325 | | 135 | | 460 | 04/01/2016 |
| KILAUEA MILITARY CAMP | | | | | | |
| 01/01 - 12/31 | 189 | | 103 | | 292 | 04/01/2016 |
| LANAI | | | | | | |
| 01/01 - 12/31 | 254 | | 118 | | 372 | 04/01/2016 |
| LIHUE | | | | | | |
| 01/01 - 12/31 | 325 | | 135 | | 460 | 04/01/2016 |
| LUALUALEI NAVAL MAGAZINE | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| MCB HAWAII | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| MOLOKAI | | | | | | |
| 01/01 - 12/31 | 157 | | 96 | | 253 | 04/01/2016 |
| NAS BARBERS POINT | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| PEARL HARBOR | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| PMRF BARKING SANDS | | | | | | |
| 01/01 - 12/31 | 325 | | 135 | | 460 | 04/01/2016 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| SCHOFIELD BARRACKS | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| TRIPLER ARMY MEDICAL CENTER | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| WHEELER ARMY AIRFIELD | | | | | | |
| 01/01 - 12/31 | 177 | | 123 | | 300 | 04/01/2016 |
| **MIDWAY ISLANDS** | | | | | | |
| MIDWAY ISLANDS | | | | | | |
| 01/01 - 12/31 | 125 | | 77 | | 202 | 04/01/2016 |
| **NORTHERN MARIANA ISLANDS** | | | | | | |
| [OTHER] | | | | | | |
| 01/01 - 12/31 | 99 | | 102 | | 201 | 07/01/2015 |
| ROTA | | | | | | |
| 01/01 - 12/31 | 130 | | 107 | | 237 | 07/01/2015 |
| SAIPAN | | | | | | |
| 01/01 - 12/31 | 140 | | 98 | | 238 | 07/01/2015 |
| TINIAN | | | | | | |
| 01/01 - 12/31 | 99 | | 102 | | 201 | 07/01/2015 |
| **PUERTO RICO** | | | | | | |
| [OTHER] | | | | | | |
| 01/01 - 12/31 | 109 | | 112 | | 221 | 06/01/2012 |
| AGUADILLA | | | | | | |
| 01/01 - 12/31 | 171 | | 84 | | 255 | 11/01/2015 |
| BAYAMON | | | | | | |
| 06/01 - 11/30 | 167 | | 88 | | 255 | 12/01/2015 |
| 12/01 - 05/31 | 195 | | 88 | | 283 | 12/01/2015 |
| CAROLINA | | | | | | |
| 06/01 - 11/30 | 167 | | 88 | | 255 | 12/01/2015 |
| 12/01 - 05/31 | 195 | | 88 | | 283 | 12/01/2015 |
| CEIBA | | | | | | |
| 01/01 - 12/31 | 139 | | 92 | | 231 | 10/01/2012 |
| CULEBRA | | | | | | |
| 01/01 - 12/31 | 150 | | 98 | | 248 | 03/01/2012 |
| FAJARDO [INCL ROOSEVELT RDS NAVSTAT] | | | | | | |

| LOCALITY | | MAXIMUM LODGING AMOUNT (A) | + MEALS AND INCIDENTALS RATE (B) | = MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|
| **WAKE ISLAND** | 01/01 - 12/31 | 139 | 92 | 231 | 10/01/2012 |
| FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO] | | | | | |
| | 06/01 - 11/30 | 167 | 88 | 255 | 12/01/2015 |
| WAKE ISLAND | | | | | |
| | 01/01 - 12/31 | 173 | 66 | 239 | 07/01/2014 |
| | 12/01 - 05/31 | 195 | 88 | 283 | 12/01/2015 |
| HUMACAO | | | | | |
| | 01/01 - 12/31 | 139 | 92 | 231 | 10/01/2012 |
| LUIS MUNOZ MARIN IAP AGS | | | | | |
| | 06/01 - 11/30 | 167 | 88 | 255 | 12/01/2015 |
| | 12/01 - 05/31 | 195 | 88 | 283 | 12/01/2015 |
| LUQUILLO | | | | | |
| | 01/01 - 12/31 | 139 | 92 | 231 | 10/01/2012 |
| MAYAGUEZ | | | | | |
| | 01/01 - 12/31 | 109 | 112 | 221 | 09/01/2010 |
| PONCE | | | | | |
| | 01/01 - 12/31 | 149 | 89 | 238 | 09/01/2012 |
| RIO GRANDE | | | | | |
| | 01/01 - 12/31 | 169 | 123 | 292 | 06/01/2012 |
| SABANA SECA [INCL ALL MILITARY] | | | | | |
| | 06/01 - 11/30 | 167 | 88 | 255 | 12/01/2015 |
| | 12/01 - 05/31 | 195 | 88 | 283 | 12/01/2015 |
| SAN JUAN & NAV RES STA | | | | | |
| | 12/01 - 05/31 | 195 | 88 | 283 | 12/01/2015 |
| | 06/01 - 11/30 | 167 | 88 | 255 | 12/01/2015 |
| VIEQUES | | | | | |
| | 01/01 - 12/31 | 175 | 95 | 270 | 03/01/2012 |
| **VIRGIN ISLANDS (U.S.)** | | | | | |
| ST. CROIX | | | | | |
| | 04/15 - 12/14 | 247 | 110 | 357 | 06/01/2015 |
| | 12/15 - 04/14 | 299 | 116 | 415 | 06/01/2015 |
| ST. JOHN | | | | | |
| | 05/01 - 12/03 | 170 | 107 | 277 | 08/01/2015 |
| | 12/04 - 04/30 | 230 | 113 | 343 | 08/01/2015 |
| ST. THOMAS | | | | | |
| | 01/01 - 12/31 | 240 | 112 | 352 | 08/01/2015 |

| LOCALITY | MAXIMUM LODGING AMOUNT (A) | + | MEALS AND INCIDENTALS RATE (B) | = | MAXIMUM PER DIEM RATE (C) | EFFECTIVE DATE |
|---|---|---|---|---|---|---|
| **WAKE ISLAND** | | | | | | |
| WAKE ISLAND | | | | | | |
| 01/01 - 12/31 | 173 | | 66 | | 239 | 07/01/2014 |

[FR Doc. 2016–12469 Filed 5–25–16; 8:45 am]

**BILLING CODE 5001–06–C**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DOD–2012–OS–0065]**

### Proposed Collection; Comment Request

**AGENCY:** Deputy Chief Management Officer, Diversity, Disability, and Recruitment Division, Washington Headquarters Services, Human Resources Directorate, DoD.

**ACTION:** Notice.

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**SUMMARY:** In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Deputy Chief Management Officer announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by July 25, 2016.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Washington Headquarters Services, Human Resources Directorate, ATTN: Edna Johnson, 4800 Mark Center Drive, Suite 03D08, Alexandria, VA 22350–3200 or email at *edna.e.johnson6.civ@mail.mil.*

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Confirmation of Request for Reasonable Accommodation; SD Form 827; OMB Control Number 0704–0498.

*Needs and Uses:* The information collection requirement is necessary to obtain and record requests for reasonable accommodation, with the intent to measure and ensure Agency compliance with Rehabilitation Act of 1973, Public Law 93–112; Rehabilitation Act Amendments of 1992, Public Law 102–569; Americans with Disabilities Act Amendments Act of 2008, Public Law 110–325.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 5.

*Number of Respondents:* 20.

*Responses per Respondent:* 1.

*Annual Responses:* 20.

*Average Burden per Response:* 15 minutes.

*Frequency:* On occasion.

The completed form will document requests for reasonable accommodation(s) (regardless of type of accommodation) and the outcome of such requests. Respondents are employees of WHS serviced components or applicants for employment of WHS serviced components.

Dated: May 23, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016–12458 Filed 5–25–16; 8:45 am]

**BILLING CODE 5001–06–P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

**AGENCY:** Department of Defense.

**ACTION:** Notice.

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**SUMMARY:** The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will take place. This meeting is open to the public.

**DATES:** Tuesday, June 14, 2016, from 8:30 a.m. to 12:30 p.m.; Wednesday, June 15, 2016, from 8:30 a.m. to 12:00 p.m.

**ADDRESSES:** Sheraton Pentagon City, 900 South Orme Street, Arlington, VA 22204.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Bowling or DACOWITS Staff at 4800 Mark Center Drive, Suite 04J25–01, Alexandria, Virginia 22350–9000; *robert.d.bowling1.civ@mail.mil,* telephone (703) 697–2122, fax (703) 614–6233. Any updates to the agenda or any additional information can be found at *http://dacowits.defense.gov/.*

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the DACOWITS. The purpose of the meeting is for the Committee to receive briefings and updates relating to their current work. The Committee will start the meeting with the Designated Federal Officer (DFO) giving a status update on the Committee's requests for information. There will then be a panel with the Services to brief their Gender Integration Implementation Plans. This will be followed by a panel discussion with the Services on their Marketing and Accession Plans and then a panel on the Services' Strategic Communication Plans. There will be a public comment period at the end of day one. On the second day, the Committee will receive a briefing from DoD on the Gender Integration Implementation Oversight Plan and a briefing from Marine Corps on the Gender Integration Implementation Plan for Recruit Training. Additionally, DoD SAPRO will provide a briefing on their Retaliation Strategy. Insight Policy Research will provide an overview briefing on the 2016 Focus Group Findings. Lastly, the Committee will provide an update on their study topics.

Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, interested persons may submit a written statement for consideration by the DACOWITS. Individuals submitting a written statement must submit their statement to the point of contact listed at the address in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., Tuesday, June 7, 2016. If a written statement is not received by Tuesday, June 7, 2016, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DACOWITS until its next open meeting. The DFO will review all timely submissions with the DACOWITS Chair and ensure they are provided to the members of the Committee. If members of the public are interested in making an oral statement, a written statement should be submitted. After reviewing the written comments, the Chair and the DFO will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Pursuant to 41 CFR 102–3.140(d), determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the DFO, and will depend on time available and if the topics are relevant to the Committee's activities. Five minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Tuesday, June 14, 2016 from 12:00 p.m. to 12:30 p.m. in front of the full Committee. The number of oral presentations to be made will depend on the number of requests received from members of the public. Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to the availability of space.

**Meeting Agenda**

*Tuesday, June 14, 2016, From 8:30 a.m. to 12:30 p.m.*

- —Welcome, Introductions, Announcements
- —Request for Information Status Update
- —Panel Discussion—Services Gender Integration Implementation Plans
- —Panel Discussion—Services Marketing and Accession Plans
- —Panel Discussion—Services Strategic Communication Plans
- —Public Comment Period

*Wednesday, June 15, 2016, From 8:30 a.m. to 12:00 p.m.*

- —Welcome and Announcements
- —Briefing—DoD Gender Integration Implementation Oversight Plan
- —Briefing—USMC Gender Integration Implementation Plan for Recruit Training
- —Briefing—DoD SAPRO Retaliation Strategy
- —Briefing—Overview of 2016 Focus Group Findings
- —Committee 2016 Study Topic Update

Dated: May 23, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016–12432 Filed 5–25–16; 8:45 am]

**BILLING CODE 5001–06–P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Charter Renewal of Department of Defense Federal Advisory Committees

**AGENCY:** Department of Defense.

**ACTION:** Renewal of Federal Advisory Committee.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Department of Defense Board of Actuaries ("the Board").

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

**SUPPLEMENTARY INFORMATION:** The Board's charter is being renewed pursuant to 10 U.S.C. 183 and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(d). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *http://www.facadatabase.gov/.*

The Board provides the Secretary of Defense and the Deputy Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness, independent advice and recommendations on matters relating to the DoD Military Retirement Fund, the DoD Education Benefits Fund, the DoD Voluntary Separation Incentive Fund, and other funds as the Secretary of Defense shall specify.

The Board is comprised of three members who are appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries. All members of the Board are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Members of the Board who are not employees of the United States are entitled to receive pay of the highest rate of basic pay under the General Schedule of subchapter III of chapter 53 of title 5 U.S.C., for each day the member is engaged in the performance of duties vested in the Board. All members are entitled to reimbursement for official Board-related travel and per diem.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: May 23, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016–12463 Filed 5–25–16; 8:45 am]

**BILLING CODE 5001–06–P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Government-Industry Advisory Panel; Notice of Federal Advisory Committee Meeting

**AGENCY:** Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), Department of Defense (DoD).

**ACTION:** Federal advisory committee meeting notice.

**SUMMARY:** The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Government-Industry Advisory Panel. This meeting is open to the public.

**DATES:** The meeting will be held from 1:00 p.m. to 5:00 p.m. on Tuesday, June 7, 2016. Public registration will begin at 12:30 p.m. For entrance into the meeting, you must meet the necessary requirements for entrance into the Pentagon. For more detailed information, please see the following link: *http://www.pfpa.mil/access.html.*

**ADDRESSES:** Pentagon Library, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155. The meeting will be held in Room B7. The Pentagon Library is located in the Pentagon Library and Conference Center (PLC2) across the Corridor 8 bridge.

**FOR FURTHER INFORMATION CONTACT:** LTC Andrew Lunoff, Office of the Assistant Secretary of Defense (Acquisition), 3090 Defense Pentagon, Washington, DC 20301–3090, email: *andrew.s.lunoff.mil@mail.mil,* phone: 571–256–9004.

**SUPPLEMENTARY INFORMATION:** Due to circumstances beyond the control of the

Designated Federal Officer and the Department of Defense, the Government-Industry Advisory Panel is unable to provide public notification, as required by 41 CFR 102–3.150(a), for its meeting on Tuesday, June 7, 2016. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

*Purpose of the Meeting:* This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The Government-Industry Advisory Panel will review sections 2320 and 2321 of title 10, United States Code (U.S.C.), regarding rights in technical data and the validation of proprietary data restrictions and the regulations implementing such sections, for the purpose of ensuring that such statutory and regulatory requirements are best structured to serve the interest of the taxpayers and the national defense. The scope of the panel is as follows: (1) Ensuring that the Department of Defense (DoD) does not pay more than once for the same work, (2) Ensuring that the DoD contractors are appropriately rewarded for their innovation and invention, (3) Providing for cost-effective reprocurement, sustainment, modification, and upgrades to the DoD systems, (4) Encouraging the private sector to invest in new products, technologies, and processes relevant to the missions of the DoD, and (5) Ensuring that the DoD has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use.

*Agenda:* This will be the first meeting of the Government-Industry Advisory Panel with a series of meetings planned through September 1, 2016. The panel will cover details of 10 U.S.C. 2320 and 2321, begin understanding the implementing regulations and detailed the necessary groups within the private sector and government to provide supporting documentation for their review of these codes and regulations during follow-on meetings. Agenda items for the first meeting will include the following: (1) Planning/initial discussions on issues or concerns of 10 U.S.C. 2320 and 2321; (2) Planning/initial discussions on implementing DFARS regulations (Subparts 227.71 and .72, and associated clauses); (3) Planning/initial discussions on DoD's policy and guidance on Intellectual Property (IP) strategy and management; (4) Planning/initial discussions on DoD personnel preparation for implementation of DoD's IP policy and guidance; (5) Planning/initial discussion of regulation of extending and adapting the scheme of 10 U.S.C. 2320 and 2321 to apply to computer software; (6) Planning/initial discussion on applicability of 10 U.S.C. 2320 and 2321, and implementing DFARS requirements and clauses, to contracts and subcontracts for commercial items; (7) Planning/initial discussions on practices used by DoD in acquiring IP from non-traditional contractors, commercial contractors, and traditional contractors; (8) Planning/initial discussion on DoD's policy, guidance and practices linking technical data management and other IP considerations with open systems architecture (OSA) and/or modular open systems approaches (MOSA); (9) Planning/initial discussions on sections 1701 and 1705 of House Armed Services Committee markup of H.R. 4909, The National Defense Authorization Act for Fiscal Year 2017; (10) Planning for follow-on meeting.

A request for information will be sent to the public attempting to check on IP guiding principles, training curriculum used by DoD, current approach in regulation (DFARS 227.71 and 227.72), practices used by DoD in acquiring IP and any citations to current regulations and law.

*Availability of Materials for the Meeting:* A copy of the agenda or any updates to the agenda for the June 7, 2016 meeting will be available as requested or at the following site: *http://www.facadatabase.gov/committee/meetings.aspx?cid=2561.*

Minor changes to the agenda will be announced at the meeting. All materials will be posted to the FACA database after the meeting.

*Public Accessibility to the Meeting:* Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin upon publication of this meeting notice and end three business days (June 2) prior to the start of the meeting. All members of the public must contact LTC Lunoff at the phone number or email listed in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements for Pentagon escort, if necessary. Public attendees should arrive at the Pentagon's Visitor's Center, located near the Pentagon Metro Station's south exit and adjacent to the Pentagon Transit Center bus terminal with sufficient time to complete security screening no later than 12:30 p.m. on June 7. To complete security screening, please come prepared to present two forms of identification of which one must be a pictured identification card. Government and military DoD CAC holders are not required to have an escort, but are still required to pass through the Visitor's Center to gain access to the Building. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number to the Designated Federal Officer (DFO) listed in the **FOR FURTHER INFORMATION CONTACT** section. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee.

*Special Accommodations:* The meeting venue is fully handicap accessible, with wheelchair access.

Individuals requiring special accommodations to access the public meeting or seeking additional information about public access procedures, should contact LTC Lunoff, the committee DFO, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

*Written Comments or Statements:* Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Government-Industry Advisory Panel about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to LTC Lunoff, the committee DFO, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO at least five (5) business days prior to the meeting so that they may be made available to the Government-Industry Advisory Panel for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the panel until its next meeting. Please note that because the panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

*Verbal Comments:* Members of the public will be permitted to make verbal comments during the meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days in advance to the committee DFO, via electronic mail, the preferred mode of submission, at the email address listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the panel's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described in this paragraph, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO.

Dated: May 20, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016–12377 Filed 5–25–16; 8:45 am]

BILLING CODE 5001–06–P

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## DEPARTMENT OF EDUCATION

### Extension of Deadline Date; Data Disaggregation Initiative Program

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.365D.]

**AGENCY:** Office of English Language Acquisition, Department of Education.

**ACTION:** Notice; extension of deadline date.

**SUMMARY:** On May 4, 2016, we published in the **Federal Register** (81 FR 26780) a notice inviting applications for new awards for fiscal year (FY) 2016 for the Data Disaggregation Initiative Program. The notice established July 5, 2016, as the deadline date for eligible applicants to apply for funding under the program. This notice extends the deadline for transmittal of applications to August 1, 2016. All other requirements and conditions stated in the notice inviting applications, including the deadline for intergovernmental review, remain the same.

**DATES:** Deadline for Transmittal of Applications: August 1, 2016. Deadline for Intergovernmental Review: September 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Melissa Escalante, U.S. Department of Education, 400 Maryland Ave. SW., Room 5C153, Washington, DC 20202. Telephone: (202) 401–4300 or by email: *OELA.D2.2016@ed.gov.*

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** On May 4, 2016, we published in the **Federal Register** (81 FR 26780) a notice inviting applications for new awards (NIA) for FY 2016 for the Data Disaggregation Initiative Program. The NIA established July 5, 2016, as the deadline date for eligible applicants to apply for funding under the program. However, as the NIA requires SEAs to submit an application in consortia with one or more LEAs, we believe it is critical that the SEAs be given additional time to engage in discussions with LEAs and take the necessary steps to secure the partnership documentation before the summer break begins. At the same time, we intend to make awards by the end of the current fiscal year. Therefore, we are extending the deadline for transmittal of applications to August 1, 2016. In order to make awards by the end of FY 2016, under 34 CFR 79.8(a), we are not extending the deadline for intergovernmental review, which remains September 1, 2016. All other requirements and conditions stated in the NIA remain the same.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 20, 2016.

**Libia S. Gil,**

*Assistant Deputy Secretary and Director for the Office of English Language Acquisition.*

[FR Doc. 2016–12368 Filed 5–25–16; 8:45 am]

BILLING CODE 4000–01–P

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## DEPARTMENT OF ENERGY

### Nuclear Energy Advisory Committee

**AGENCY:** Department of Energy, Office of Nuclear Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Nuclear Energy Advisory Committee (NEAC). The Federal Advisory Committee Act (Pub. L. 94–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

**DATES:** Friday, June 17, 2016, 9:00 a.m.–4:30 p.m.

**ADDRESSES:** Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Bob Rova, Designated Federal Officer, U.S. Department of Energy, 19901 Germantown Rd., Germantown, MD 20874; telephone: (301) 903–9096; email *Robert.rova@nuclear.energy.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Nuclear Energy Advisory Committee (NEAC), formerly the Nuclear Energy Research Advisory Committee (NERAC), was established in 1998 by the U.S. Department of Energy (DOE) to provide advice on complex scientific, technical, and policy issues that arise in the planning, managing, and implementation of DOE's civilian nuclear energy research programs. The committee is composed of 17 individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to nuclear energy.

*Purpose of the Meeting:* To inform the committee of recent developments and current status of research programs and projects pursued by the Department of Energy's Office of Nuclear Energy and receive advice and comments in return from the committee.

*Tentative Agenda:* The meeting is expected to include presentations that provide the committee updates on activities for the Office of Nuclear Energy. In addition, there will be presentations by Nuclear Energy Advisory Committee subcommittees. The agenda may change to accommodate committee business. For updates, one is directed the NEAC Web site: *http://energy.gov/ne/services/nuclear-energy-advisory-committee.*

*Public Participation:* Individuals and representatives of organizations who would like to offer comments and suggestions may do so on the day of the meeting, Friday, June 17, 2016. Approximately thirty minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed 5 minutes. Anyone who is not able to make the meeting or has had insufficient time to address the committee is invited to send a written statement to Bob Rova, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, or email *robert.rova@nuclear.energy.gov.*

*Minutes:* The minutes of the meeting will be available by contacting Mr. Rova at the address above or on the Department of Energy, Office of Nuclear Energy Web site at *http://energy.gov/ne/services/nuclear-energy-advisory-committee.*

Issued in Washington, DC, on May 20, 2016.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2016–12459 Filed 5–25–16; 8:45 am]

**BILLING CODE 6450–01–P**

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## DEPARTMENT OF ENERGY

**[FE Docket No. 10–161–LNG; FE Docket No. 11–161–LNG]**

## Freeport LNG Expansion, L.P.FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC Statement Regarding Change in Control

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of change in control.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of a notice and statement regarding change in control, filed March 2, 2016 (Statement),[1] by Freeport LNG Expansion, L.P. (Freeport Expansion), FLNG Liquefaction, LLC (FLIQ1), FLNG Liquefaction 2, LLC (FLIQ2), and FLNG Liquefaction 3, LLC (FLIQ3) (collectively, FLEX). The Statement is intended to inform DOE/FE about a change in control of the upstream ownership of FLIQ1.[2] The Statement was filed under section 3 of the Natural Gas Act (NGA), 15 U.S.C. 717b.

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed using procedures detailed in the Public Comment Procedures section of this Notice no later than 4:30 p.m., Eastern time, June 10, 2016.

**ADDRESSES:**

*Electronic Filing by email: fergas@hq.doe.gov.*

*Regular Mail:* U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

*Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.):* U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Larine Moore or Benjamin Nussdorf, U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7893.

Edward Myers, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–3397.

**SUPPLEMENTARY INFORMATION:**

### Summary of Change in Control

As noted above, the Statement is intended to inform DOE/FE about a change in control of the upstream ownership of FLIQ1. The Statement indicates that FLIQ1 is 100 percent owned by FLIQ1 Holdings, LLC (Holdings) and 25 percent of Holdings is owned by Osaka Gas Liquefaction USA Corporation, 25 percent by Chubu Electric Power Company Freeport, Inc., and 50 percent by Freeport LNG Expansion, L.P. The Statement does not propose to change these ownership stakes. However, the Statement proposes a change to the ownership of Chubu Electric Power Company Freeport, Inc. Whereas, prior to the change in control, 100 percent of Chubu Electric Power Company Freeport, Inc. was owned by Chubu Electric Power Company, after the change, Chubu Electric Power Company Freeport, Inc. will be 100 percent owned by a joint venture called JERA Co., Inc. In this regard, JERA Co., Inc. is 50 percent owned by Chubu Electric Power Company and 50 percent is owned by Tokyo Electric Power Fuel & Thermal Power Generation Business Split Preparation Company, Inc., a wholly owned subsidiary of Tokyo Electric Power Company, Incorporated. Additional details can be found in the Statement, posted on the DOE/FE Web site at *http://energy.gov/sites/prod/files/2016/03/f30/ChubuJERA%20CIC%20Notice%2003%2002%202016_1.pdf.*

### DOE/FE Evaluation

DOE/FE will review the Statement[3] in accordance with its Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas (CIC Revised Procedures).[4] Consistent with the CIC Revised Procedures, this Notice addresses only those FLEX proceedings in which final authorizations have been issued to export LNG to non-FTA countries. The affected proceedings include DOE/FE Docket Nos. 10–161–LNG and 11–161–LNG.[5] If no interested

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[1] Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC, and FLNG Liquefaction 3, LLC, Notice and Statement of Change in Control, FE Docket Nos. 10–160–LNG, 10–161–LNG, 11–161–LNG, 12–06–LNG (Mar. 2, 2016).

[2] On September 23, 2014, DOE/FE granted an earlier FLEX request for a change in control of FLIQ1 and FLIQ2. *Freeport LNG Expansion, L.P., et al.,* Order Approving Change in Control of Export Authorizations, DOE/FE Docket Nos. 14–005–CIC, 10–160–LNG, 10–161–LNG, 11–161–LNG, 12–06–LNG (Sept. 23, 2014).

[3] The Statement identifies two other proceedings, FE Docket Nos. 10–60–LNG and 12–06–LNG, in which DOE/FE authorized FLEX to export liquefied natural gas (LNG) to countries with which the United States currently has, or in the future will have, a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries). Consistent with the Revised CIC Procedures, DOE gives immediate effect to these changes. *See* 79 FR 65542.

[4] 79 FR 65541 (Nov. 5, 2014).

[5] The final authorizations issued in the referenced non-FTA proceedings include *Freeport LNG Expansion L.P., et al.,* DOE/FE Order No. 3282–C, FE Docket No. 10–161–LNG, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations (Nov. 14, 2014); and *Freeport LNG Expansion L.P., et al.,* DOE/FE Order No. 3357–B, FE Docket No. 11–161–LNG, Final Opinion and Order Granting Long-Term Multi-Contract

Continued

person protests the change in control and DOE takes no action on its own motion, the change in control will be deemed granted 30 days after publication in the **Federal Register.** If one or more protests are submitted, DOE will review any motions to intervene, protests, and answers, and will issue a determination as to whether the proposed change in control has been demonstrated to render the underlying authorization inconsistent with the public interest.

### Public Comment Procedures

Interested persons will be provided 15 days from the date of publication of this Notice in the **Federal Register** in order to move to intervene, protest, and answer the Statement. Protests, motions to intervene, notices of intervention, and written comments are invited in response to this Notice only as to the proposed change in control described in the Statement.[6] All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Preferred method: Emailing the filing to *fergas@hq.doe.gov,* with the individual FE Docket Number(s) in the title line, or FLEX Change in Control in the title line to include all applicable dockets in this Notice; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES;** or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to the individual FE Docket Number(s) in the title line, or FLEX Change in Control in the title line to include all applicable dockets in this Notice. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

The Statement and any filed protests, motions to intervene or notice of interventions, and comments are available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC, 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. These documents are also available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on May 19, 2016.

**John A. Anderson,**

*Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.*

[FR Doc. 2016–12315 Filed 5–25–16; 8:45 am]

BILLING CODE 6450–01–P

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Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations (Nov. 14, 2014).

[6] Intervention, if granted, would constitute intervention only in the change in control portion of these docket proceedings, as described herein.

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP15–549–000]**

## Columbia Gas Transmission, LLC; Notice of Availability of the Environmental Assessment for the Proposed SM–80 MAOP Restoration Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the SM–80 MAOP Restoration Project, proposed by Columbia Gas Transmission, LLC (Columbia) in the above-referenced docket. Columbia requests authorization to abandon, construct, and operate certain natural gas pipeline facilities in Wayne County, West Virginia. The proposed project would restore the maximum allowable operating pressure of part of the SM–80 system.

The EA assesses the potential environmental effects of the construction and operation of the SM–80 MAOP Restoration Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed SM–80 MAOP Restoration Project includes the following:

- Abandonment of 3.3 miles of 30-inch-diameter pipeline and associated above ground appurtenances
- Construction of 3.9 miles of 30-inch-diameter pipe to replace the abandoned pipeline
- Minor modifications to support facilities

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before June 17, 2016.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP15–549–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file

with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in the Docket Number field (*i.e.*, CP15–549). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12413 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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[1] See the previous discussion on the methods for filing comments.

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Docket No. IC16–10–000]

## Commission Information Collection Activities (FERC Form 80, FERC–550, and FERC–549); Consolidated Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of information collections and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden [1] of the information collections described below.

**DATES:** Comments on the collections of information are due July 25, 2016.

**ADDRESSES:** You may submit comments (identified by Docket No. IC16–10–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Please reference the specific collection number and/or title in your comments.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

*Comments:* Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

### FERC Form 80, [Licensed Hydropower Development Recreation Report]

*OMB Control No.:* 1902–0106.

*Abstract:* FERC uses the information on the FERC Form 80 (also known as "FERC–80,") to implement the statutory provisions of sections 4(a), 10(a), 301(a), 304 and 309 of the Federal Power Act (FPA), 16 U.S.C. 797, 803, 825c & 8254. FERC's authority to collect this information comes from section 10(a) of the FPA which requires the Commission to be responsible for ensuring that hydro projects subject to FERC jurisdiction are consistent with the comprehensive development of the nation's waterway for recreation and other beneficial public uses. In the interest of fulfilling these objectives, FERC expects licensees subject to its jurisdiction to recognize the resources that are affected by their activities and to play a role in protecting such resources.

FERC Form 80 is a report on the use and development of recreational facilities at hydropower projects licensed by the Commission. Applications for amendments to licenses and/or changes in land rights frequently involve changes in resources available for recreation. FERC utilizes the FERC Form 80 data when analyzing the adequacy of existing public recreational facilities and when processing and reviewing proposed amendments to help determine the impact of such changes. In addition, FERC staff uses the FERC Form 80 data when conducting inspections of licensed projects and in evaluating compliance with various license conditions and in identifying recreational facilities at hydropower projects.

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[1] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

The data which FERC Form 80 requires are specified by Title 18 of the Code of Federal Regulations (CFR) under 18 CFR 8.11 and 141.14 (and are discussed at *http://www.ferc.gov/docs-filing/forms.asp#80*).

FERC collects the FERC Form 80 once every six years. The last collection was due on April 1, 2015, for data compiled during the 2014 calendar year. The next collection of the FERC Form 80 is due on April 1, 2021, with subsequent collections due every sixth year, for data compiled during the previous calendar year.

The Commission updated the format for the general instructions section of the form for improved readability. Specifically, FERC split a long paragraph into several smaller paragraphs.

FERC has attached to this notice the proposed format change to the general information section. FERC made no changes to the remainder of the instructions, form, and glossary and did not attach those to this notice.

*Type of Respondent:* Hydropower project licensees.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden for the information collection as:

FERC FORM 80: LICENSED HYDROPOWER DEVELOPMENT RECREATION REPORT

| Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1)*(2)=(3) | Average burden & cost per response[2] (4) | Total annual burden hours & total annual cost (3)*(4)=(5) | Cost per respondent ($) (5)÷(1) |
|---|---|---|---|---|---|
| 400 | 0.167 | 67[3] | 3 hrs.; $224[4] | 201 hrs.; $14,974.50 | $37.44 |

**FERC–550, [Oil Pipelines Rates—Tariffs Filings]**

*OMB Control No.:* 1902–0089.

*Abstract:* FERC–550 is required to implement the sections of the Interstate Commerce Act (ICA) (49 U.S.C. 1, *et seq.*, 49 App. U.S.C. 1–85). The Commission's regulatory jurisdiction over oil pipelines includes:

- Regulation of rates and practices of oil pipeline companies engaged in interstate transportation;
- establishment of equal service conditions to provide shippers with equal access to pipeline transportation;
- establishment of reasonable rates for transporting petroleum and petroleum products by pipeline.

The filing requirements for oil pipeline tariffs and rates[5] put in place by the FERC–550 data collection provide the Commission with the information it needs to analyze proposed tariffs, rates, fares, and charges of oil pipelines and other carriers in connection with the transportation of crude oil and petroleum products. The Commission uses this information to determine whether the proposed tariffs and rates are just and reasonable.

*Type of Respondent:* Oil Pipelines.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden[6] and cost[7] for the FERC–550 information collection as follows:

FERC–550: OIL PIPELINES RATES—TARIFFS FILINGS

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1)*(2)=(3) | Average burden & cost per response[8] (4) | Total annual burden hours & total annual cost (3)*(4)=(5) | Cost per respondent ($) (5)÷(1) |
|---|---|---|---|---|---|---|
| FERC–550 | 208 | 3.68 | 765 | 7.815 hrs.; $582.22 | 5,978 hrs.; $445,396 | $2,141.33 |

**FERC–549, [NGPA Title III Transactions and NGA Blanket Certificate Transaction]**

*OMB Control No.:* 1902–0089.

*Abstract:* FERC–549 is required to implement the statutory provisions governed by Sections 311 and 312 of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3371–3372) and Section 7 of the Natural Gas Act (NGA) (15 U.S.C. 717f). The reporting requirements for implementing these provisions are contained in 18 CFR part 284.

*Transportation by Interstate Pipelines*

In 18 CFR 284.102(e) the Commission requires interstate pipelines to obtain proper certification in order to ship natural gas on behalf of intrastate pipelines and local distribution companies (LDC). This certification consists of a letter from the intrastate pipeline or LDC authorizing the interstate pipeline to ship gas on its behalf. In addition, interstate pipelines must obtain from its shippers certifications including sufficient information to verify that their services qualify under this section.

*Rates and Charges for Intrastate Pipelines*

18 CFR 284.123(b) provides that intrastate gas pipeline companies file for Commission approval of rates for

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[2] The estimates for cost per response are derived using the 2016 FERC average salary plus benefits of $154,647/year (or $74.50/hour). Commission staff finds that the work done for this information collection is typically done by wage categories similar to those at FERC.

[3] This figure is rounded from 66.8.

[4] This figure is rounded from $223.50.

[5] 18 CFR parts 341–348.

[6] The one-time burden imposed by Order 780 (issued May 16, 2013, in Docket No. RM12–15–000; 78 FR 32090, 5/29/2013) has been completed and is not included.

[7] The cost is based on FERC's 2016 average cost (salary plus benefits) of $74.50/hour. The Commission staff believes that the industry's level and skill set is comparable to FERC.

[8] The estimates for cost per response are derived using the FERC 2016 average salary plus benefits of $154,647/year (or $74.50/hour). Commission staff finds that the work done for this information collection is typically done by wage categories similar to those at FERC.

services performed in the interstate transportation of gas. An intrastate gas pipeline company may elect to use rates contained in one of its then effective transportation rate schedules on file with an appropriate state regulatory agency for intrastate service comparable to the interstate service or file proposed rates and supporting information showing the rates are cost based and are fair and equitable. It is the Commission policy that each pipeline must file at least every five years to ensure its rates are fair and equitable. Depending on the business process used, either 60 or 150 days after the application is filed, the rate is deemed to be fair and equitable unless the Commission either extends the time for action, institutes a proceeding or issues an order providing for rates it deems to be fair and equitable.

18 CFR 284.123(e) requires that within 30 days of commencement of new service any intrastate pipeline engaging in the transportation of gas in interstate commerce must file a statement that includes the interstate rates and a description of how the pipeline will engage in the transportation services, including operating conditions. If an intrastate gas pipeline company changes its operations or rates it must amend the statement on file with the Commission. Such amendment is to be filed not later than 30 days after commencement of the change in operations or change in rate election.

### *Code of Conduct*

The Commission's regulations at 18 CFR 284.288 and 284.403 provide that applicable sellers of natural gas adhere to a code of conduct when making gas sales in order to protect the integrity of the market. As part of this code, the Commission imposes a record retention requirement on applicable sellers to "retain, for a period of five years, all data and information upon which it billed the prices it charged for natural gas it sold pursuant to its market based sales certificate or the prices it reported for use in price indices." FERC uses these records to monitor the jurisdictional transportation activities and unbundled sales activities of interstate natural gas pipelines and blanket marketing certificate holders.

The record retention period of five years is necessary due to the importance of records related to any investigation of possible wrongdoing and related to assuring compliance with the codes of conduct and the integrity of the market. The requirement is necessary to ensure consistency with the rule prohibiting market manipulation (regulations adopted in Order No. 670, implementing the EPAct 2005 anti-manipulation provisions) and the generally applicable five-year statute of limitations where the Commission seeks civil penalties for violations of the anti-manipulation rules or other rules, regulations, or orders to which the price data may be relevant.

Failure to have this information available would mean the Commission is unable to perform its regulatory functions and to monitor and evaluate transactions and operations of interstate pipelines and blanket marketing certificate holders.

### *Market-Based Rates for Storage*

In 2006 the Commission amended its regulations to establish criteria for obtaining market-based rates for storage services offered under 18 CFR 284.501–505. First, the Commission modified its market-power analysis to better reflect the competitive alternatives to storage. Second, pursuant to the Energy Policy Act of 2005, the Commission promulgated rules to implement section 4(f) of the Natural Gas Act, to permit underground natural gas storage service providers that are unable to show that they lack market power to negotiate market-based rates in circumstances where market-based rates are in the public interest and necessary to encourage the construction of the storage capacity in the area needing storage services, and where customers are adequately protected. These revisions are intended to facilitate the development of new natural gas storage capacity while protecting customers.

*Type of Respondent:* Gas pipelines.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden for the information collection as:

FERC–549: NGPA TITLE III TRANSACTIONS AND NGA BLANKET CERTIFICATE TRANSACTION

| | Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden & cost per response | Total annual burden hours & total annual cost | Cost per respondent ($) |
|---|---|---|---|---|---|---|
| | (1) | (2) | (1)*(2)=(3) | (4) | (3)*(4)=(5) | (5)+(1) |
| Transportation by Interstate Pipelines[9] | 75 | 2 | 150 | 3 hrs.; [10] $386.82 | 450 hrs.; $58,023 | $773.64 |
| Rates and Charges for Intrastate Pipelines[11] | 50 | 1 | 50 | 50 hrs.; $5,084.5[12] | 2,500 hrs.; $254,225 | $5,084.50 |
| Code of Conduct (record-keeping)[13] | 222 | 1 | 222 | 1 hr.; $128.94[10] | 222 hrs.; $28,624.68 | $128.94 |
| Market-Based Rates[14] | 4 | 1 | 4 | 350 hrs.; $45,129[10] | 1,400 hrs.; $180,516 | $45,129 |
| TOTAL | | | 426 | | 4,572 hrs.; $521,388.68 | |

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[9] 18 CFR 284.102(e).

[10] The average hourly cost (salary plus benefits) is $128.94. The BLS wage category code is 23–0000. This figure is also taken from the Bureau of Labor Statistics, May 2015 figures at *http://www.bls.gov/oes/current/naics2_22.htm.*

[11] 284.123(b), (e).

[12] The estimates for cost per response are derived using the following formula:

Average Burden Hours per Response * $101.69 per Hour = Average Cost per Response. The hourly average of $101.69 assumes equal time is spent by an economist and lawyer. The average hourly cost (salary plus benefits) is: $74.43 for economists (occupation code 19–3011) and $128.94 for lawyers (occupation code 23–0000). (The figures are taken from the Bureau of Labor Statistics, May 2015 figures at *http://www.bls.gov/oes/current/naics2_22.htm*).

[13] 18 CFR 284.288, 403.

[14] 18 CFR 284.501–505.

Dated: May 20, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12411 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### [Docket No. PL15–3–000]

### Policy Statement

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Policy Statement.

**SUMMARY:** The Commission adopts the following policies regarding future implementation of hold harmless commitments offered by applicants as ratepayer protection mechanisms to mitigate adverse effects on rates that may result from transactions subject to section 203 of the Federal Power Act (FPA). First, the Commission clarifies the scope and definition of the costs that should be subject to hold harmless commitments. Second, the Commission adopts the proposal that applicants offering hold harmless commitments should implement controls and procedures to track the costs from which customers will be held harmless. The Commission identifies the types of controls and procedures that applicants offering hold harmless commitments should implement. Third, the Commission declines to adopt its proposal to no longer accept hold harmless commitments that are limited in duration. Fourth, the Commission clarifies that, in connection with certain types of FPA section 203 transactions, an applicant may be able to demonstrate that the transaction will not have an adverse effect on rates without the need to make any hold harmless commitment.

**DATES:** This policy statement will become effective August 24, 2016.

**FOR FURTHER INFORMATION CONTACT:**
Eric Olesh (Technical Information), Office of Energy Market Regulation, 888 First Street NE., Washington, DC 20426, (202) 502–6524, *eric.olesh@ferc.gov.*
Noah Monick (Legal Information), Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–8299, *noah.monick@ferc.gov.*
Olga Anguelova (Accounting Information), Office of Enforcement, 888 First Street NE., Washington, DC 20426, (202) 502–8098, *olga.anguelova@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Policy Statement

1. The Commission issues this Policy Statement to provide guidance regarding future implementation of hold harmless commitments offered by applicants as ratepayer protection mechanisms to mitigate adverse effects on rates that may result from transactions that are subject to section 203 of the Federal Power Act (FPA).[1]

2. On January 22, 2015, the Commission proposed guidance in four areas pertaining to hold harmless commitments: (1) The scope and definition of the costs that should be subject to hold harmless commitments; (2) controls and procedures to track the costs from which customers will be held harmless; (3) whether to no longer accept hold harmless commitments that are limited in duration; and (4) clarification that, in certain cases, an applicant may be able to demonstrate that a proposed transaction will not have an adverse effect on rates without the need to make any hold harmless commitment or offer any other form of ratepayer protection mechanism.[2] We adopt, clarify, and withdraw, in part, the proposals in the Proposed Policy Statement as explained in further detail below.

3. First, we adopt, as general guidance, the lists of transaction-related costs and transition costs that should be subject to any hold harmless commitment, as proposed in the Proposed Policy Statement, and provide additional clarifications regarding transition costs, capital costs, labor costs, and the costs of transactions that are not consummated. Second, we adopt, in part, the proposal regarding establishing controls and procedures for transaction-related costs subject to any hold harmless commitment. Third, we withdraw our proposal to no longer accept hold harmless commitments that are limited in duration and clarify that we will continue to accept hold harmless commitments that are time limited to support a Commission finding that a proposed transaction will have no adverse effect on rates. Fourth, we clarify that consistent with the Merger Policy Statement, a hold harmless commitment is one of several forms of ratepayer protection that an applicant can offer to address any potential adverse effect on rates, and that hold harmless commitments may be unnecessary for some categories of transactions if an applicant can otherwise demonstrate that a proposed transaction will have no adverse effect on rates.

## I. Background

### *A. The Commission's Analysis of Proposed Transactions Under FPA Section 203*

4. FPA section 203(a)(4) requires the Commission to approve proposed dispositions, consolidations, acquisitions, or changes in control if it determines that the proposed transaction will be consistent with the public interest.[3] The Commission's analysis of whether a transaction will be consistent with the public interest generally involves consideration of three factors: (1) The effect on competition; (2) the effect on rates; and (3) the effect on regulation.[4] Before granting authorization, FPA section 203(a)(4) also requires the Commission to find that the transaction "will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission determines that the cross-subsidization, pledge, or encumbrance will be consistent with the public interest."[5]

5. The Proposed Policy Statement focused on the second prong of the Commission's FPA section 203 analysis, specifically, the effect of a proposed transaction on rates. As explained in the Proposed Policy Statement, the Commission has stated that, when considering a proposed transaction's effect on rates, the Commission's focus "is on the effect that a proposed transaction itself will have on rates, whether that effect is adverse, and

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[1] 16 U.S.C. 824b (2012).

[2] *Policy Statement on Hold Harmless Commitments,* Proposed Policy Statement, 80 FR 4231 (Jan. 27 2015), 150 FERC ¶ 61,031 (2015) (Proposed Policy Statement).

[3] 16 U.S.C. 824b(a)(4) (2012).

[4] *See Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act: Policy Statement,* Order No. 592, 61 FR 68595 (Dec. 30, 1996), FERC Stats. & Regs. ¶ 31,044, at 30,111 (1996) (Merger Policy Statement), *reconsideration denied,* Order No. 592–A, 79 FERC ¶ 61,321 (1997). *See also FPA Section 203 Supplemental Policy Statement,* 72 FR 42277 (Aug. 2, 2007), FERC Stats. & Regs. ¶ 31,253 (2007). *See also Revised Filing Requirements Under Part 33 of the Commission's Regulations,* Order No. 642, 65 FR 70983 (Nov. 28, 2000), FERC Stats. & Regs. ¶ 31,111 (2000), *order on reh'g,* Order No. 642–A, 94 FERC ¶ 61,289 (2001). *See also Transactions Subject to FPA Section 203,* Order No. 669, 71 FR 1348 (Jan. 6, 2006), FERC Stats. & Regs. ¶ 31,200 (2005), *order on reh'g,* Order No. 669–A, 71 FR 28422 (May 16, 2006), FERC Stats. & Regs. ¶ 31,214, *order on reh'g,* Order No. 669–B, 71 FR 42579 (July 27, 2006), FERC Stats. & Regs. ¶ 31,225 (2006).

[5] 16 U.S.C. 824b(a)(4). The Commission's regulations establish verification and information requirements for applicants that seek a determination that a transaction will not result in inappropriate cross-subsidization or a pledge or encumbrance of utility assets. *See* 18 CFR 33.2(j).

whether any adverse effect will be offset or mitigated by benefits that are likely to result from the proposed transaction."[6] As relevant here, the Commission considers whether the transaction could result in an adverse effect on rates to wholesale requirements or transmission customers.

6. Generally, the Commission may find that a transaction will have no adverse effect on rates if an applicant demonstrates that there is no mechanism that would enable the applicant to recover costs related to the transaction in wholesale power or transmission rates, either because existing contracts would not allow such costs to be passed through to customers or, in the case of market-based rates, the transaction can have no adverse impact on wholesale rates.[7] In addition, in cases in which the proposed transaction may have an effect on rates, the Commission may nevertheless be able to find that the transaction will not have an adverse effect on rates if the applicant has demonstrated that there are offsetting benefits. Finally, the Commission may base its finding that a transaction will not have an adverse effect on rates in whole or in part on an applicant's offer of specific ratepayer protections, such as a hold harmless commitment.

7. If an applicant's only customers are wholesale power sales customers served under market-based rates, then the transaction will have no adverse effect on rates for such customers.[8] Similarly, if an applicant is unable to pass through transaction-related costs because its existing contracts do not allow for such pass through, then the transaction will have no adverse effect on rates for such customers.[9] If, however, the transaction could result in an increase in rates and the wholesale power sales customers of the applicants are not served exclusively under market-based rates, or if the applicants have wholesale requirements or transmission customers, the Commission evaluates whether there are sufficient benefits to ratepayers that would offset any potential rate impact. If such benefits exist, the analysis of the effect on rates ends with a finding that there is no adverse effect on rates because of those offsetting economic benefits.[10]

If a proposed transaction has the potential to increase wholesale rates, but there is no showing of quantifiable offsetting economic benefits, the Commission must determine whether ratepayers are sufficiently protected from the potential rate increase, or whether there are other non-quantifiable, offsetting benefits that would, nevertheless, support a finding that the proposed transaction is consistent with the public interest, regardless of the potential for a rate increase.[11] When the Commission has considered such non-quantifiable offsetting benefits, it has often been in the context of transactions that increase competition or enable more competitive markets, such as transactions resulting in the expansion of regional transmission organizations or the increase in transmission ownership by independent transmission companies.[12]

8. Prior to the issuance of the Merger Policy Statement, the Commission had required applicants and intervenors to estimate the future costs and benefits of a transaction and then litigate the validity of those estimates. The Commission, however, eliminated those requirements in the Merger Policy Statement and, instead, established various ratepayer protection mechanisms that an applicant could offer to insulate customers from any possible rate effects attributable to a proposed transaction.[13]

9. The Commission then explained that it had previously accepted "a variety of hold harmless provisions," and that parties could consider those as well as "other mechanisms if they appropriately address ratepayer concerns."[14] Among the types of protection the Commission stated applicants could propose were the following:

- —Open season for wholesale customers—applicants agree to allow existing wholesale customers a reasonable opportunity to terminate their contracts (after notice) and switch suppliers. This allows customers to protect themselves from merger-related harm.
- —General hold harmless provision—a commitment from the applicant that it will protect wholesale customers from any adverse rate effects resulting from the merger for a significant period of time following the merger. Such a provision must be enforceable and administratively manageable.
- —Moratorium on increases in base rates (rate freeze)—applicants commit to freezing their rates for wholesale customers under certain tariffs for a significant period of time.
- —Rate reduction—applicants make a commitment to file a rate decrease for their wholesale customers to cover a significant period of time.[15]

10. The Commission concluded that, although each mechanism would provide some benefit to ratepayers, in the majority of circumstances the most meaningful (and the most likely to give wholesale customers the earliest opportunity to take advantage of emerging competitive wholesale markets) was an open season provision.[16]

11. Subsequently, in Order No. 642, the Commission promulgated regulations governing FPA section 203 applications and described the information applicants must submit regarding the effect of a proposed transaction on rates. In relevant part, the Commission stated:

> In the [Merger] Policy Statement, we determined that ratepayer protection mechanisms (*e.g.*, open seasons to allow early termination of existing service contracts or rate freezes) may be necessary to protect

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[6] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 3 (quoting *ITC Midwest LLC*, 140 FERC ¶ 61,125, at P 19 (2012)).

[7] *See Exelon Corp.*, 149 FERC ¶ 61,148, at P 105 (2014).

[8] *Cinergy Corp.*, 140 FERC ¶ 61,180, at P 41 (2012) (citing *Duquesne Light Holdings, Inc.*, 117 FERC ¶ 61,326, at P 25 (2006)) ("The Commission has previously stated that, when there are market-based rates, the effect on rates is not of concern. The effect on rates is not of concern in these circumstances because market-based rates will not be affected by the seller's cost of service and, thus, will not be adversely affected by the Proposed Transaction.").

[9] *See, e.g., Public Service Co. of New Mexico*, 153 FERC ¶ 61,377, at P 39 (2015); *NRG Energy Holdings, Inc.*, 146 FERC ¶ 61,196, at P 87 (2014).

[10] The Commission has found that there is no adverse effect on rates where, although costs may increase in one area of the utility's operations, lower costs are expected elsewhere. *See, e.g., Bluegrass Generation Co., L.L.C.*, 139 FERC ¶ 61,094, at P 41 (2012) (finding no adverse effect on rates because increases in capacity charges would be offset by a savings in energy rates).

[11] An increase in rates "can still be consistent with the public interest if there are countervailing benefits that derive from the merger." Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,114; *see also ALLETE, Inc.*, 129 FERC ¶ 61,174, at P 19 (2009) ("Our focus here is on the effect that the Proposed Transaction itself will have on rates, whether that effect is adverse, and whether any adverse effect will be offset or mitigated by benefits likely to result from the Proposed Transaction.").

[12] *See, e.g., ITC Midwest LLC*, 133 FERC ¶ 61,169, at P 23 (2010) (finding offsetting benefits because of the transfer of transmission assets to a standalone transmission company); *ALLETE*, 129 FERC ¶ 61,174 at P 20 (finding that the advantages created in joining a regional transmission organization outweighed potential rate increase created by the different tax treatment of the assets after transfer); *Ameren Servs. Co.*, 103 FERC ¶ 61,121, at P 23 (2003) (finding that increasing a regional transmission organization's footprint would offset a rate increase); *Rockland Elec. Co.*, 97 FERC ¶ 61,357, at 62,651 (2001) (finding that attracting more bidders and encouraging more competition offset a potential rate increase for locational marginal prices along a seam at times of peak demand).

[13] Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,111 ("[I]n assessing the effect of a proposed merger on rates, we will no longer require applicants and intervenors to estimate the future costs and benefits of a merger and then litigate the validity of those estimates. Instead, we will require applicants to propose appropriate rate protection for customers.").

[14] *Id.* at 30,124.

[15] *Id.* (footnotes omitted).

[16] *Id.*

> the wholesale customers of merger applicants. . . .
>
> Thus, in the [Notice of Proposed Rulemaking] we proposed that all merger applicants demonstrate how wholesale ratepayers will be protected and that applicants will have the burden of proving that their proposed ratepayer protections are adequate. Specifically, we proposed that applicants must clearly identify what customer groups are covered (*e.g.*, requirements customers, transmission customers, formula rate customers, etc.), what types of costs are covered, and the time period for which the protection will apply.[17]

12. The Commission adopted the proposals set forth in the Notice of Proposed Rulemaking and emphasized that if applicants did not offer any ratepayer protection mechanisms, they must explain how the proposed merger would provide adequate ratepayer protection.[18]

### *B. Current Commission Practice Regarding Hold Harmless Commitments*

13. Over the last decade hold harmless commitments have become a common feature of FPA section 203 applications involving mergers of traditional franchised utilities or their upstream holding companies.[19] More recently, hold harmless commitments have been made in connection with transactions by traditional franchised utilities to acquire jurisdictional facilities in order to satisfy resource adequacy requirements at the state level, to improve system reliability and/or meet other regulatory requirements.[20]

14. The Commission has consistently accepted hold harmless commitments in which FPA section 203 applicants commit not to seek recovery of transaction-related costs in jurisdictional rates except to the extent that such costs are offset by transaction-related savings.[21] Thus, hold harmless commitments typically focus on preventing recovery in rates of the costs incurred that are "related" to the transaction.[22] Although the Commission has relied on commitments to hold customers harmless from transaction-related costs to support findings of no adverse effects on rates, these commitments generally have not included detailed definitions of the transaction-related costs that are covered by the applicant's hold harmless commitment or identified the categories of savings that the transaction is expected to produce.[23]

### *C. Proposed Policy Statement*

15. On January 22, 2015, the Commission issued a Proposed Policy Statement on Hold Harmless Commitments to attempt to address: (1) Concerns of parties that may believe hold harmless commitments offer insufficient protection; (2) instances in which hold harmless commitments may not be necessary; and (3) confusion over the scope and coverage of hold harmless commitments.

16. The Proposed Policy Statement focused on the matter of what should constitute an acceptable hold harmless commitment to demonstrate that ratepayers will be adequately protected from any rate effects of a transaction. The Commission identified several general areas to address including: (1) The scope and definition of the costs that should be subject to hold harmless commitments; (2) controls and procedures to track the costs from which customers will be held harmless; (3) the acceptance of hold harmless commitments that are limited in duration; and (4) clarification that, if applicants are otherwise able to demonstrate that a proposed transaction will not have an adverse effect on rates, then there is no need for applicants to make hold harmless commitments or offer other ratepayer protection mechanisms. The Proposed Policy Statement did not propose to provide guidance on what categories of savings related to a proposed transaction may be used in a subsequent section 205 filing to justify recovery of transaction-related costs. These issues will be considered on a case-by-case basis.

### *D. Comments*

17. Comments were filed by American Electric Power Company, Inc. (AEP); American Public Power Association and the National Rural Electric Cooperative Association (collectively, APPA and NRECA); Edison Electric Institute (EEI); Electric Power Supply Association (EPSA); Louisville Gas and Electric Company and Kentucky Utilities Company (collectively, Kentucky Utilities); South Central MCN, LLC and Midcontinent MCN, LLC (collectively, Transmission-Only Companies); Southern Company Services, Inc. as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (collectively, Southern Company); Transmission Access Policy Study Group; and Transmission Dependent Utility Systems (Transmission Dependent Utilities).

18. We discuss specific concerns raised by commenters below.

## II. Discussion

### *A. Scope and Definition of Transaction-Related Costs*

#### 1. Proposal

19. The Commission's experience has been that applicants generally do not attempt to define what costs are subsumed in the term "transaction-related costs," and that this may lead to later disagreement over which costs are or are not covered by the applicant's hold harmless commitment. In the Proposed Policy Statement, therefore, the Commission set forth guidelines for costs subject to hold harmless

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[17] Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,914.

[18] *Id.*

[19] The Commission has also accepted other forms of ratepayer protection in lieu of or in addition to hold harmless commitments. *See, e.g., Cinergy Services, Inc.*, 102 FERC ¶ 61,128, at P 33 (2003) (accepting rate freeze as rate mitigation); *Vermont Yankee Nuclear Power Corp.*, 91 FERC ¶ 61,325, at 62,125 (2000) (accepting rate cap and an open season provision as mitigation); *Cajun Elec. Power Coop., Inc.*, 90 FERC ¶ 61,309, at 62,005–06 (2000) (approving a transaction where current customers were allowed to keep their current contracts or choose from three different power purchasing agreements).

[20] *See, e.g., FirstEnergy Generation Corp.*, 141 FERC ¶ 61,239, at PP 1, 16, 27–30 (2012) (*FirstEnergy*) (accepting a hold harmless commitment in an asset transaction where generation assets would be turned into assets to support transmission system upgrades in order to meet needs identified in a study by PJM Interconnection, L.L.C. following the retirement of other generating facilities); *ITC Midwest*, 140 FERC ¶ 61,125 at P 15; *Int'l Transmission Co.*, 139 FERC ¶ 61,003, at P 16 (2012).

[21] *NSTAR Advanced Energy Sys., Inc.*, 131 FERC ¶ 61,098, at P 24 (2010) ("The Commission looks for assurances from public utilities that they hold customers harmless from these transaction-related costs, to the extent they are not exceeded by cost savings arising from the transaction, for a significant period of time following the merger, not an indefinite period of time.") (internal citation omitted); *see also Cinergy*, 140 FERC ¶ 61,180 at P 42; *ITC Midwest*, 140 FERC ¶ 61,125 at PP 21–22; *Int'l Transmission*, 139 FERC ¶ 61,003 at P 17; *BHE Holdings Inc.*, 133 FERC ¶ 61,231, at P 37 (2010); *cf. Sierra Pacific Power Co.*, 133 FERC ¶ 61,017, at P 14 (2010) (accepting a commitment not to include any transaction-related costs in its Commission-accepted open access transmission tariff).

[22] An applicant may seek to recover transaction-related costs incurred prior to consummating a proposed transaction or those transaction-related costs incurred within the time period during which the hold harmless commitment applies by making certain filings. Specifically, an applicant must submit a new filing under FPA section 205 and a concurrent informational filing in the relevant FPA section 203 docket. In the FPA section 205 filing, an applicant must: (1) Specifically identify the transaction-related costs they are seeking to recover; and (2) demonstrate that those costs are exceeded by the savings produced by the transaction. *Exelon Corp.*, 149 FERC ¶ 61,148 at PP 105–107.

[23] *See, e.g., Puget Energy*, 123 FERC ¶ 61,050 at P 27 ("We accept Applicants' hold harmless commitment, which we interpret to include all merger-related costs, not only costs related to consummating the transaction. If Applicants seek to recover any merger-related costs in a subsequent section 205 filing, they must show quantifiable offsetting benefits.") (citations and footnotes omitted); *National Grid plc*, 117 FERC ¶ 61,080, at P 54 (2006) ("Applicants have committed to hold ratepayers harmless from transaction-related costs in excess of transaction savings for a period of five years.").

commitments offered by FPA section 203 applicants.[24] Specifically, the Commission proposed that the costs set out below are those transaction-related costs from which customers must be held harmless and that may not be recovered from customers except to the extent exceeded by demonstrated transaction-related savings.[25] The Commission proposed to provide guidance in the Proposed Policy Statement regarding how to identify transaction-related costs, and acknowledged that attempts to precisely articulate all such costs are not feasible.

20. First, the Commission proposed that transaction-related costs include, but are not limited to, the following costs incurred to explore, agree to, and consummate a transaction:

- The costs of securing an appraisal, formal written evaluation, or fairness opinions related to the transaction;
- the costs of structuring the transaction, negotiating the structure of the transaction, and obtaining tax advice on the structure of the transaction;
- the costs of preparing and reviewing the documents effectuating the transaction (*e.g.,* the costs to transfer legal title of an asset, building permits, valuation fees, the merger agreement or purchase agreement and any related financing documents);
- the internal labor costs of employees [26] and the costs of external, third-party, consultants and advisors to evaluate potential merger transactions, and once a merger candidate has been identified, to negotiate merger terms, to execute financing and legal contracts, and to secure regulatory approvals; [27]
- the costs of obtaining shareholder approval (*e.g.,* the costs of proxy solicitation and special meetings of shareholders);
- professional service fees incurred in the transaction (*e.g.,* fees for accountants, surveyors, engineers, and legal consultants); and
- installation, integration, testing, and set up costs related to ensuring the operability of facilities subject to the transaction.

21. Moreover, the Commission stated that, for transactions that are pursued but never completed (transactions that ultimately fail), transaction-related costs should not be recovered from ratepayers. The Commission also recognized that not every cost listed above will be found in every transaction,[28] and that the final determination of what transaction-related costs may be recovered by applicants will remain subject to case-by-case analysis.

22. The Commission stated that there is a second category of transaction-related costs related to mergers, where, in addition to the costs to consummate the transaction described above, parties typically also incur costs to integrate the operations and assets of the merging companies in order to achieve merger synergies.[29] These costs, which are sometimes referred to collectively as "transition" costs, are incurred after the transaction is consummated, often over a period of several years. These costs include both the internal costs of employees spending time working on transition issues, and external costs paid to consultants and advisers to reorganize and consolidate functions of the merging entities to achieve merger synergies. These costs may also include both capital items (*e.g.,* a new computer system or software, or costs incurred to carry out mitigation commitments accepted by the Commission in approving the transaction to address competition issues, such as the cost of constructing new transmission lines) and expense items (*e.g.,* costs to eliminate redundancies, combine departments, or maximize contracting efficiencies). The Commission proposed that such transition costs incurred to integrate the operations of merging companies include, but are not limited to, the following:

- Engineering studies needed both prior to and after closing the merger;
- severance payments;
- operational integration costs;
- accounting and operating systems integration costs;
- costs to terminate any duplicative leases, contracts, and operations; and
- financing costs to refinance existing obligations in order to achieve operational and financial synergies.[30]

23. The Commission stated that this list of transition costs is not exhaustive, and may include other categories of costs incurred or paid in connection with the integration of two utilities after a merger. Thus, the Commission proposed to consider transition costs as transaction-related costs that should be subject to hold harmless commitments on a case-by-case basis and that such transaction-related costs should be covered under hold harmless protection, although noting that applicants will have an opportunity to show why certain of those costs should not be considered transaction-related costs under their hold harmless commitment based on their particular circumstances. Also, the Commission proposed to consider, on a case-by-case basis, whether other costs not discussed herein should be subject to hold harmless commitments.

24. Additionally, the Commission noted that accounting journal entries related to a merger transaction may affect expense, asset, liability, or proprietary capital accounts used in the development of a public utility's rates.[31] These accounting journal entries may originate from transaction-related costs recorded as an expense or capitalized as an asset. Additional accounting journal entries may originate from goodwill and fair value adjustments related to the purchase price paid for the acquired company. Merger transactions are accounted for by applying purchase accounting, which adjusts the assets and liabilities of the acquired entity to fair value and recognizes goodwill for the amount paid in excess of fair value.[32] If the acquired company is a holding company, purchase accounting also provides for the fair value adjustments and goodwill to be recorded on the books of some, or all, of the acquired holding company's subsidiaries, which is commonly referred to as "push-down" accounting. Under appropriate circumstances, the Commission has allowed the fair value accounting adjustments and goodwill to be recorded on a public utility's books and reported in the FERC Form No. 1. Additionally, the Commission has required public utilities to maintain detailed accounting records and disclosures associated with such amounts so as to facilitate the evaluation of the effects of the transaction on common equity and other

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[24] *See* Proposed Policy Statement, 150 FERC ¶ 61,031 at PP 21–28.

[25] We expect that applicants proposing to recover these costs would track and record them pursuant to the procedures established below. *See infra* PP 66–69.

[26] If the duties of employees are not solely dedicated to activities related to a transaction, internal labor costs deemed merger-related should be determined in a manner that is proportionally equal to the amount of time spent on the merger compared to other activities of the utility and tracked accordingly.

[27] Some of these costs are typically incurred prior to the announcement of a merger.

[28] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 23.

[29] Entities engaging in certain internal corporate restructuring and reorganizations, unrelated to complying with state law restructuring requirements, may seek to achieve similar cost savings or increased efficiencies as merging entities.

[30] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 24.

[31] *Id.* P 26.

[32] Purchase accounting is also commonly referred to as acquisition accounting under generally accepted accounting principles in the United States. Purchase accounting is a formal accounting method for merger transactions which measures the assets and liabilities of the acquired entity at fair value and establishes goodwill for amounts paid in excess of fair value. *See* Accounting Standard Codification Section 805–10 (Fin. Accounting Standards Bd. 2014), *http://asc.fasb.org.*

accounts in future periods if needed for ratemaking purposes.[33] The Commission stated that it believed that ratepayers should continue to be protected from adverse effects on rates stemming from accounting entries recording goodwill and fair value adjustments on a public utility's books and reported in FERC Form Nos. 1 or 1–F. This is consistent with our long-standing policy that acquisition premiums, including goodwill, must be excluded from jurisdictional rates absent a filing under FPA section 205 and Commission authorization granting recovery of specific costs.

25. Finally, the Commission stated, in the context of FPA section 203 transactions involving the acquisition of discrete assets (*e.g.*, an existing power plant) by a utility, under the Commission's accounting regulations and rate precedent the excess purchase cost of utility plant over its depreciated original cost is an acquisition premium and is excluded from recovery through rates unless a showing of offsetting benefits is demonstrated in an FPA section 205 filing.[34] The Commission stated that it has not, and does not, consider acquisition premiums to be part of transaction-related costs and, as such, it did not believe that the proposed treatment of transaction-related costs required a change in the Commission's current practice with respect to acquisition premiums. Therefore, the Commission stated it will continue to preclude recovery of acquisition premiums as part of transaction-related costs, and reminded applicants that a showing of "specific, measurable, and substantial benefits to ratepayers" must be made in a subsequent FPA section 205 proceeding in order to recover an acquisition premium, whether or not a hold harmless commitment has been made.[35]

### 2. Comments

### a. General Comments

26. As a general matter, many commenters support the Commission's intent to provide additional guidance and clarity to the costs covered by hold harmless commitments.[36] For example, EEI generally supports the list of costs that the Commission proposes to consider as transaction-related costs covered by a hold harmless commitment as long as individual applicants continue to have the flexibility to tailor what is covered by the hold harmless commitment to their individual circumstances.[37] EEI also states that the Commission should explicitly confirm that hold harmless commitments only apply to transaction-related costs.[38]

27. Several commenters support the full list of transaction-related costs the Commission enumerated.[39] For example, APPA and NRECA support the scope of the costs outlined in the Proposed Policy Statement. APPA and NRECA list the following benefits likely to emerge from the Commission's clarifications including: (1) Fewer protests of FPA section 203 applications; (2) more streamlined FPA section 203 proceedings; (3) improved ratepayer protections; (4) more consistent Commission orders; (5) easier enforcement and administration in Commission orders; (6) fewer compliance issues and complaints regarding cost recovery; (7) greater assurance of recovery of costs; and (8) lower financing costs due to more regulatory certainty.[40]

28. At the same time, APPA and NRECA agree that the proposed list of costs is not definitive or determinative and that "because each transaction is unique, the final determination of what transaction-related costs may be recovered by applicants will remain subject to a case-by-case analysis."[41] APPA and NRECA and the Transmission Dependent Utilities suggest that applicants should bear the ultimate burden to show the adequacy of their hold harmless commitment.[42] The Transmission Dependent Utilities request that the Commission confirm that, in making its case-by-case determinations as to additional costs that will be subject to particular hold harmless commitments, the Commission will not limit its consideration only to consummation and transition costs but it will consider "any rate increase that results from a transaction."[43]

29. APPA and NRECA also state that they remain skeptical that utility mergers benefit customers in the form of lower wholesale energy prices or lower transmission rates and assert that empirical evidence supports their view.[44] They state that the evidence for the electric industry mergers is mixed at best and shows that merger benefits do not pan out and are not passed on to consumers.[45] Therefore, APPA and NRECA state that the Commission should be vigilant in enforcing hold harmless commitments.[46]

30. Other commenters suggest the Commission take a different approach than an enumerated list of transaction-related and transition costs. For example, the Kentucky Utilities state that the Proposed Policy Statement should utilize "a more neutral" approach in its guidance as to whether transaction-related costs should be subject to a hold harmless commitment and that, if the transaction meets direct operating or regulatory compliance needs, any offered hold harmless commitment should not be assumed to cover "nearly all" transaction/transition costs.[47] Instead, the Kentucky Utilities suggest that the Commission should recognize that covered costs should be based on a fair and reasonable analysis of the specific facts or circumstances of the transaction.[48]

31. Several commenters support the Commission's current policy regarding treatment of acquisition premiums.[49] Finally, Transmission Access Policy Study Group states that the Commission should not be dissuaded from adopting its proposal based on speculative contentions that these measures will chill investment.[50]

### b. Transition Costs

32. EEI and AEP request that the Commission provide greater clarity as to the scope and definition of transition

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[33] *PPL Corp.*, 133 FERC ¶ 61,083, at P 39 (2010); *Michigan Electric Transmission Co., LLC*, 116 FERC ¶ 61,164, at PP 29–30 (2006); *Niagara Mohawk Holdings Inc.*, 95 FERC ¶ 61,381, at 62,415, *reh'g denied*, 96 FERC ¶ 61,144 (2001).

[34] Proposed Policy Statement, 150 FERC ¶ 61, 031 at P 27.

[35] *Id.* (citing *Duke Energy Progress, Inc.*, 149 FERC ¶ 61,220, at PP 67–68 (2014) (reviewing Commission precedent requiring that acquisition adjustments may be recovered if the acquisition provides "measurable benefits" that are "tangible and nonspeculative," and allowing recovery of an acquisition adjustment where "the acquisition provides specific, measurable, and substantial benefits to ratepayers") (internal citations omitted)).

[36] *See* AEP Comments at 2; APPA and NRECA Comments at 8; EEI Comments at 2; Kentucky Utilities Comments at 2; Southern Company Comments at 5; Transmission Access Policy Study Group Comments at 1;Transmission Dependent Utilities Comments at 3.

[37] EEI Comments at 13.

[38] *Id.*

[39] APPA and NRECA Comments at 9; Transmission Access Policy Study Group Comments at 3; Transmission Dependent Utilities Comments at 3–4.

[40] APPA and NRECA Comments at 7–8.

[41] *Id.* at 8 (citing Proposed Policy Statement, 150 FERC ¶ 61,031 at P 21). *See also* Transmission Dependent Utilities Comments at 4.

[42] APPA and NRECA Comments at 9; Transmission Dependent Utilities Comments at 4.

[43] Transmission Dependent Utilities Comments at 4.

[44] APPA and NRECA Comments at 6–7 (citing John Kwoka, Merger Control, and Remedies: A Retrospective Analysis of U.S. Policy 104, 126, 148, 155–56, 231 (2015)).

[45] *Id.*

[46] *Id.* at 7.

[47] Kentucky Utilities Comments at 6.

[48] *Id.*

[49] APPA and NRECA Comments at 9; Transmission Access Policy Study Group Comments at 3–4; Transmission Dependent Utilities Comments at n.8.

[50] Transmission Access Policy Study Group Comments at 4.

costs. Both caution that the Proposed Policy Statement does not distinguish transition costs from other ongoing business activities that merging entities may undergo that are unrelated to the merger but are also seeking to increase efficiency.[51] EEI notes that the lack of distinction could lead companies to postpone otherwise beneficial investments to avoid those investments being viewed as transaction-related costs.[52]

33. Furthermore, AEP states that over time the costs of ongoing business as a public utility and transition costs will become harder to differentiate,[53] and EEI cautions that a broad definition risks creating uncertainty about recovery of prudently-incurred costs.[54] Both are specifically concerned that post-integration engineering studies will be included as transition costs and they assert that doing so will discourage utilities from undertaking studies that are prudent or beneficial to ratepayers.[55] Finally, AEP questions the Commission's basis for generally including transition costs as transaction-related costs because: (1) Applicants generally commit to hold customers harmless from costs directly incurred to effectuate the transaction and (2) the Proposed Policy Statement does not cite a case in which the Commission has formally adopted a rule requiring the inclusion of transition costs as transaction-related costs.[56]

### c. Capital Costs

34. AEP and EEI assert that the costs of any assets used to provide utility service on an ongoing basis belong in rate base and should not be excluded from the rate base because they may be a transaction cost.[57] Both assert that capital assets could be built to increase efficiencies, they will benefit customers, and the costs should be fully recoverable.[58] AEP asserts that the test for whether these capital costs should be included should be the same as it has always been: "are the facilities used and useful by the utility's customers and were the costs of the facilities prudently incurred in connection with the provision of utility service." [59] AEP states that this is consistent with the general principle that ratepayers should bear the cost of utility service.[60]

35. AEP states that making capital costs subject to a hold harmless commitment raises further issues of how the policy will be implemented, including tracking and recovery of costs and future interconnection of generating facilities.[61] AEP states that the Commission has approved settlements in the past that did not include new transmission as a transition cost; instead, the Commission waited to address it in a future proceeding, which AEP asserts is the appropriate course for capital costs.[62]

36. Furthermore, EEI and AEP state that hold harmless commitments should not apply to costs related to new facilities that are constructed at the Commission's direction or approval to mitigate market power concerns raised by a merger transaction.[63] Both assert that these assets provide utility service, and therefore benefits, to customers and should not be excluded from recovery as transaction costs just because the assets were included in mitigation strategies.[64] EEI suggests that new facilities that raise competition or rate concerns may be addressed through protection mechanisms other than a hold harmless commitment and that doing so would reduce implementation problems regarding the tracking of costs and recovery of related costs.[65]

37. EEI asserts that the Commission should recognize that costs related to transactions undertaken as part of normal operations, such as to align ownership of an asset with a maintenance or reliability compliance obligation, or a transaction involving acquisition of a small, discrete transmission asset from a distribution-only entity, should not be subject to exclusion from rates under a hold harmless commitment.[66]

### d. Internal Labor Costs

38. AEP, EEI, and Southern Company all suggest that the Commission should clarify that internal labor costs that are subject to a hold harmless commitment should include only incremental costs caused by the merger that would not otherwise be incurred.[67] They contend that, if an employee was already employed by the merging or acquiring entities at the time the transaction was announced, the employee's salary should not be treated as a transaction-related cost because any assignments related to the transaction would be performed in addition to other duties, with no additional compensation.[68] Furthermore, EEI contends that the full cost of an employee's salary should continue be fully recoverable because the salary is prudently incurred to serve existing customers.[69] AEP and Southern Company assert that excluding non-incremental employee costs would result in unmerited rate reductions for customers of merging entities [70] and state that tracking labor costs will be burdensome and subject employees to endless tracking requirements.[71] Finally, AEP and Southern Company both state that the Proposed Policy Statement cites no precedent to support including non-incremental internal labor costs as transaction-related costs subject to a hold harmless commitment.[72] AEP asserts that Commission precedent can reasonably be read to mean that hold harmless commitments only apply to incremental internal costs.[73]

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[51] AEP Comments at 5–6 (giving the examples of "engineering studies," "operating systems integration costs," and "operational integration costs"); EEI Comments at 13–14 (giving the example of investments in new information technology systems, which could be timed coincidently with a merger and not incurred primarily for the purpose of integration, and, therefore, should not be considered subject to a hold harmless commitment). *See also* Kentucky Utilities Comments at 7 (cautioning that entities may also engage in non-transaction related refinancing and renegotiation of vendor contracts that could be considered transition costs under a broad definition and that only an incremental or non-utility component of those costs should be considered a transaction-related cost).

[52] EEI Comments at 14.

[53] *See* AEP Comments at 5 (stating that over time these costs "will have an increasingly diminished nexus to the merger itself").

[54] *See* EEI Comments at 14.

[55] *See* AEP Comments at 6; EEI Comments at 18.

[56] *See* AEP Comments at 4–5.

[57] *See id.* at 7; EEI Comments at 16.

[58] *See* AEP Comments at 7 (giving the example of new more efficient facilities enabled by the combined entities' larger size); EEI Comments at 16–17 (giving the example of a new operations center).

[59] AEP Comments at 7.

[60] *Id.* (citing Proposed Policy Statement, 150 FERC ¶ 61,031 at P 39).

[61] *Id.* at 8, n.1.

[62] *Id.* at 8 (citing *Pub. Serv. Co. of Colo.*, 78 FERC ¶ 61,267, at 62,139 (1997)).

[63] *See id.*; EEI Comments at 11, 17.

[64] *See* AEP Comments at 8; EEI Comments at 16.

[65] EEI Comments at 17–18 (suggesting providing customers with a first call right on the increased available transmission capacity).

[66] *Id.* at 17.

[67] *See* AEP Comments at 11; EEI Comments at 15–16; Southern Company Comments at 6–8. *See also* Kentucky Utilities Comments at 7 (cautioning that hold harmless commitments should only apply to incremental costs in general).

[68] *See* AEP Comments at 11–12; EEI Comments at 16; Southern Company Comments at 7. Southern Company recognizes that some employees may receive additional compensation due to a merger and does not object to incremental compensation or the costs of new staff brought on to effectuate the transaction being treated as incremental transaction costs. Southern Company Comments at 7–8.

[69] EEI Comments at 16.

[70] *See* AEP Comments at 11–12; Southern Company Comments at 7.

[71] *See* AEP Comments at 13; Southern Company Comments at 9.

[72] AEP Comments at 12; Southern Company Comments at 8.

[73] AEP Comments at 12 (citing *Ameren Energy Generating Co.*, 145 FERC ¶ 61,034, at P 97 n.99 (2013) (*Ameren*)).

### e. Costs of Transactions That Are Not Completed and Costs Incurred Prior to Announcement

39. AEP and EEI do not agree with the Commission's statement that costs related to transactions that are never completed should not be recovered from ratepayers.[74] Both assert that there are sound business reasons that a firm may choose not to pursue a transaction and that excluding recovery of such costs may improperly punish a firm for abandoning a transaction that was not ultimately in the best interest of its customers or discourage a firm from exploring transactions.[75] EEI asserts that past Commission policy did not exclude recovery of such costs and that it is difficult to ascertain when "normal business decisions" become transactions that are being "pursued."[76] Furthermore, EEI asserts that the proposal will require tracking of costs with more specificity than is required by the Commission's current accounting rules.[77]

40. Southern Company asks for a clarification of the treatment of costs related to failed acquisitions. It states that a clarification that this statement is applicable only to the merger context would be useful because transaction-related costs relating to failed attempts to acquire specific generation and transmission facilities to fulfill a need, such as a need to serve load reliably, should be recoverable in a utility's cost-of-service.[78] Southern Company provides an example of a Request For Proposals (RFP) for long-term capacity that results in ten bidders and negotiations are pursued with two of the bidders, one offering a 20-year power purchase agreement and another offering to sell an existing generating unit. If negotiations fail with the bidder that happens to be an existing generator, Southern states that transaction-related costs associated with the potential purchase should not be deemed "unrecoverable," as the threat of such an action could skew the RFP results.[79] Southern states that such costs are merely the routine costs of capacity procurement efforts. Therefore, Southern Company states that "[t]he Commission should clarify that such costs, to the extent prudently-incurred, are permitted to be recovered in wholesale power rates."[80]

41. EEI and EPSA contend that the Commission should not require inclusion of costs incurred prior to the announcement of a transaction because doing so would be premature, burdensome, and costly.[81] EEI states that long-term strategic planning, including investigating potential transactions, is part of the routine daily operations of any company and should not be singled out for separate tracking, which it asserts would be unwieldy and misleading because staff would conceivably have to bill their time separately for every potential project or transaction they analyze, just in case that project or transaction came to fruition.[82] EEI states that the burden of this proposal exceeds the benefits due to the number of transactions that may be explored and could provide a disincentive for companies to investigate transactions that could ultimately benefit customers.[83]

### f. Request for Guidance on Savings

42. EEI suggests that the Commission should provide useful guidance by adding some discussion to the Policy Statement regarding the scope and definition of transaction-related savings or benefits.[84] EEI states that, as part of this guidance, the Commission should specify "that hold harmless costs from a purchase can be netted against benefits from a future sale, so that if the future sale produces net benefits those can be used to offset the prior purchase's costs, thereby reducing or eliminating costs to be tracked under a hold harmless commitment for the prior sale."[85] EEI states that "[t]his would allow companies that engage in multiple transactions over time to ensure that customers are not charged the costs net of the benefits of [multiple] transactions taken together."[86]

### 3. Commission Determination

43. We adopt in part the policy set forth in the Proposed Policy Statement regarding what kinds of costs are typically transaction-related costs covered by a hold harmless commitment. As described above, comments received in response to the Proposed Policy Statement were generally supportive of the Commission's proposals. Accordingly, we adopt, and will consider, as general guidance, the proposed list of transaction-related costs including:

- The costs of securing an appraisal, formal written evaluation, or fairness opinions related to the transaction;
- the costs of structuring the transaction, negotiating the structure of the transaction, and obtaining tax advice on the structure of the transaction;
- the costs of preparing and reviewing the documents effectuating the transaction (*e.g.*, the costs to transfer legal title of an asset, building permits, valuation fees, the merger agreement or purchase agreement and any related financing documents);
- the internal labor costs of employees[87] and the costs of external, third-party, consultants and advisors to evaluate potential merger transactions, and once a merger candidate has been identified, to negotiate merger terms, to execute financing and legal contracts, and to secure regulatory approvals;[88]
- the costs of obtaining shareholder approval (*e.g.*, the costs of proxy solicitation and special meetings of shareholders);
- professional service fees incurred in the transaction (*e.g.*, fees for accountants, surveyors, engineers, and legal consultants); and
- installation, integration, testing, and set up costs related to ensuring the operability of facilities subject to the transaction.

44. Further, we will adopt, and will consider, as general guidance, the proposed subset of transaction-related costs—transition costs—to include the following when incurred to integrate operations:

- Engineering studies needed both prior to and after closing the merger;
- severance payments;
- operational integration costs;
- accounting and operating systems integration costs;
- costs to terminate any duplicative leases, contracts, and operations; and
- financing costs to refinance existing obligations in order to achieve operational and financial synergies.

45. We will continue to consider hold harmless commitments on a case-by-

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[74] *Id.* at 14 (citing Proposed Policy Statement, 150 FERC ¶ 61,031 at P 23); EEI Comments at 15.

[75] *See* AEP Comments at 14–15 (stating that a utility may not have completed a transaction for which it incurred preliminary costs: (1) Because the current owner decides to abandon the transaction; (2) based on the results of due diligence review; (3) because it determined a self-built project could be built at lower cost; or (4) because a lower-cost option becomes available from another seller); EEI Comments at 15.

[76] EEI Comments at 15.

[77] *Id.*

[78] Southern Company Comments at 4–5.

[79] *Id.* at 5.

[80] *Id.*

[81] *See* EEI Comments at 14; EPSA Comments at 4–6 ("Such a requirement is tantamount to asking a couple who are only on a second date to pick out their wedding china pattern.").

[82] EEI Comments at 14.

[83] *Id.* at 14–15.

[84] *Id.* at 18.

[85] *Id.*

[86] *Id.*

[87] If the duties of employees are not solely dedicated to activities related to a transaction, internal labor costs deemed merger-related should be determined in a manner that is proportionally equal to the amount of time spent on the merger compared to other activities of the utility and tracked accordingly.

[88] Some of these costs are typically incurred prior to the announcement of a merger.

case basis and, as such, applicants may propose that their hold harmless commitment cover specific transaction-related costs in addition to those listed above, if they can demonstrate that those certain cost categories may be properly included or excluded from their hold harmless commitment without an adverse effect on rates. The burden remains on applicants to show that any offered hold harmless commitment will meet the Commission's standard that the proposed transaction does not have an adverse effect on rates.

46. We decline to adopt the Transmission Dependent Utilities' request that we consider any rate increase that results from a transaction to be a transaction-related cost subject to an applicant's hold harmless commitment. This goes beyond our standard on adverse effects on rates as an increase in rates "can still be consistent with the public interest if there are countervailing benefits that derive from the merger." [89] The adoption of the Transmission Dependent Utilities request would curtail an applicant's ability to craft suitable ratepayer protection mechanisms and limit the Commission's ability to authorize transactions where rate increases are offset by the benefits of the transaction. We continue to believe that the guidance related to transaction-related costs set out in this Policy Statement does not require a change in the Commission's current practice with respect to acquisition premiums. Therefore, we will continue to preclude recovery of acquisition premiums as part of transaction-related costs, and remind applicants that a showing of "specific, measurable, and substantial benefits to ratepayers" must be made in a subsequent FPA section 205 proceeding in order to recover an acquisition premium, whether or not a hold harmless commitment has been made.

47. To provide further clarity, we discuss below, in detail, the following topics: (a) Transition costs; (b) capital costs; (c) internal labor costs; (d) costs of transactions that are not completed and costs incurred prior to announcement; and (e) requests for guidance on savings.

a. Transition Costs

48. We will continue to consider transition costs as a subset of transaction-related costs. We are unconvinced by commenters' assertions that the line distinguishing costs incurred in connection with the normal business activities of a public utility and costs incurred to integrate operations and assets of two previously unaffiliated companies is difficult to discern or too burdensome to track. We acknowledge that the classification of a specific cost is fact specific and requires judgment in some cases. Nevertheless, to the extent there are categories of transition costs listed herein that applicants do not consider transaction-related based on transaction specific circumstances, applicants are free to demonstrate in the FPA section 203 proceeding that these costs should not be considered transaction-related. We acknowledge AEP's concern that the Commission has not adopted a formal rule regarding the treatment and definition of transition costs for purposes of a hold harmless commitment. However, the Commission has stated that transaction-related costs, in the context of a hold harmless commitment, include transition costs.[90] In this Policy Statement, we provide additional guidance as to what those costs are. Further, if an applicant categorizes costs as transaction-related out of an abundance of caution because there is uncertainty regarding the nexus between the cost and the transaction, the Commission's policy provides for the recovery of such costs with a demonstration of offsetting benefits should the transaction produce savings or other synergies.[91] This policy should not discourage beneficial investment by applicants following completion of a Commission-authorized transaction, but rather should encourage documentation and tracking of those costs and related savings.

b. Capital Costs

49. We also clarify that whether or not capital costs, including capital costs related to mitigation, should be considered transaction-related costs that should be subject to an applicant's hold harmless commitment can be considered on a case-by-case basis either upfront in the FPA section 203 proceeding, or when an applicant seeks to recover such costs in an FPA section 205 proceeding.[92] In this regard, we recognize that it would be inappropriate to adopt a general policy that all capital costs, including capital costs related to mitigation, are subject to an applicant's hold harmless commitment. Applicants may incur capital costs for facilities that are used and useful and provide service to customers. Conversely, applicants may also incur capital costs as a direct requirement of the transaction, which are not used and useful until a later point in time. An inquiry into whether these costs are used and useful or otherwise prudently incurred would require a fact specific inquiry, which is more appropriately handled on a case-by-case basis rather than under a generally applicable policy.

50. In general, capital costs unrelated to the transaction are not subject to an applicant's hold harmless commitment. For example, applicants may be able to demonstrate that certain capital projects were already in the preliminary stages of construction or development prior to the merger announcement and would be completed whether or not the transaction is ever consummated. If adequately documented, we agree that such capital costs should not be subject to an applicant's hold harmless commitment.

51. As guidance, we are principally concerned about three categories of capital costs directly tied to the transaction that may negatively impact customer rates: (1) The capital costs of facilities that are constructed as part of an applicant's commitment to mitigate competition concerns that have been identified in the Commission's authorization; (2) the costs of replacing any equipment or facility of merging companies, prior to the end of its useful life, if such action was the direct consequence of a transaction; and (3) the transition costs of integrating the previously separate systems. Generally, these costs will be considered transaction-related costs subject to an applicant's hold harmless commitment

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[89] Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,114; *see, e.g., Bluegrass Generation Co., L.L.C.*, 139 FERC ¶ 61,094 at P 41 (finding no adverse effect on rates because increases in capacity charges would be offset by a savings in energy rates).

[90] *See, e.g., Union Power Partners, L.P.*, 154 FERC ¶ 61,149, at P 63 (2016) ("We interpret Purchaser's hold harmless commitment to apply to *all transaction-related costs, including* costs related to consummating the Proposed Transaction and *transition costs*, incurred prior to the consummation of the Proposed Transaction, or in the five years after the Proposed Transaction's consummation.") (emphasis added); *Exelon Corp.*, 138 FERC ¶ 61,167, at P 118 (2012) ("We interpret Applicants' hold harmless commitment *to apply to all transaction-related costs, including* costs related to consummating the Proposed Transaction and *transition costs* (both capital and operating) incurred to achieve merger related synergies.") (emphasis added).

[91] Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,123 (noting that an increase in rates "can be consistent with the public interest if there are countervailing benefits that derive from the transaction"); *Pennsylvania Electric Co.*, 154 FERC ¶ 61,109 at P 48 ("The Commission has established that, where applicants make hold harmless commitments in the context of FPA section 203 transactions, in order to recover transaction-related costs, applicants must demonstrate offsetting benefits at the time they apply to recover those costs.").

[92] Proposed Policy Statement, 150 FERC ¶ 61,031 at PP 21–25.

unless applicants demonstrate offsetting benefits, or offer ratepayer protections other than a hold harmless commitment, in their FPA section 203 application.

52. While applicants may present their case-by-case analysis when they seek to recover capital costs in an FPA section 205 proceeding, we advise applicants to present a clear case in their FPA section 203 application to avoid uncertainty when possible. Therefore, we advise applicants to clearly state which known capital costs related to the transaction will be included or excluded from a hold harmless commitment at the time of their FPA section 203 application. Further, we advise applicants to clearly explain a process for determining which capital costs—that may be unknown at the time of the application but are related to the transaction and determined at a future date—will be included or excluded from a hold harmless commitment at the time of their FPA section 203 application. Similarly, we advise applicants to explain the treatment of operation and maintenance costs incurred in relation to transaction-related capital costs if the related plant asset meets the used and useful criterion in providing utility service, the Commission may consider exclusion of such costs from the hold harmless commitment. A clear explanation in the FPA section 203 application of the treatment of capital costs will aid the Commission and third parties in understanding how a transaction will not have an adverse effect on rates both in considering the application and in future related proceedings, including any future FPA section 205 filing to show transaction-related savings.

53. Finally, we note that capital costs incurred for documented utility need, including those for reliability, such as transmission upgrades, that are related to a transaction may offer similar benefits to the transactions discussed below where a hold harmless commitment may not be necessary for a showing of no adverse effect on rates.[93] In such cases, applicants may demonstrate that such capital costs are not transaction-related costs subject to their hold harmless commitment by showing such costs have offsetting benefits or otherwise showing that these capital costs have no adverse effect on rates.

### c. Internal Labor Costs

54. We will adopt the proposal to include both internal and external labor costs related to a transaction as transaction-related costs. The Commission's concern is that an applicant will use its existing employees to both perform normal utility activities as well as transaction-related activities and not make a distinction between the two activities. As a result, the applicant would recover transaction-related labor costs without demonstrating that they are offset by benefits. Thus, an appropriate labor cost allocation is needed to ensure the applicant's ratepayers are not paying for transaction-related activities without a showing of offsetting benefits.

55. The Commission declines to adopt AEP's reading of Commission precedent in *Ameren* as limiting transaction-related internal labor costs to incremental internal labor costs.[94] In *Ameren* the Commission stated that the applicant must file its accounting for any costs incurred to effectuate the transaction which "may include, but are not limited to, internal labor costs, legal, consulting, and professional services incurred to effectuate the transaction."[95] This statement directing accounting entries to be filed does not impact the scope of transaction-related costs subject to the applicant's hold harmless commitment, and thus, cannot be construed to mean that hold harmless commitments only apply to incremental labor costs.

56. Commenters' arguments that labor costs for existing employees that perform additional transaction-related tasks but receive no additional incremental salary should not be subject to hold harmless commitment are misplaced. Imposing additional transaction-related tasks on existing employees without additional compensation does not relieve applicants from general ratemaking principles, which require that employee costs follow the employees' assigned tasks.[96] Employees' time should be allocated in proportion to the tasks performed. Otherwise, ratepayers will bear transaction-related costs without offsetting benefits. Therefore, it is the Commission's policy that applicants support the allocation of the labor costs for salaried employees who work on both normal business activities in providing utility service and on transaction-related activities with appropriate supporting documentation (*e.g.*, approved time sheets detailing the allocation of actual time worked on utility, transaction, and other non-utility activities). To the extent applicants are unable or unwilling to track internal employees time related to a transaction, applicants should consider and propose other ratepayer protection mechanisms.

### d. Costs of Transactions That Are Not Completed and Costs Incurred Prior to Announcement

57. As for costs related to transactions that are pursued but never completed, we clarify our statement that such "costs should not be recovered from ratepayers."[97] Instead those costs are subject to the Commission's general rate-making principles under FPA sections 205 and 206 and the Commission's accounting precedent.[98] With respect to EEI's comment regarding activities in the early stages of a transaction that are undertaken in the course of normal business, we note that only those activities related to the transaction for which the hold harmless commitment was made necessitate separate tracking. In terms of tracking expenses prior to the announcement of a transaction, we note that a hold harmless commitment only applies where the Commission issues an order accepting such a commitment. Expenses for transactions that do not reach that point are subject to the Commission's ordinary ratemaking principles. Moreover, if a transaction that is the subject of a hold harmless commitment is not consummated, there would presumably never be any transaction-related savings that could offset transaction-related costs.

58. In addition, we clarify that while all costs related to the acquisition of an existing facility required to serve load or transmission customers, including costs associated with bids for other facilities that were incurred as a part of routine capacity procurement efforts, will be considered transaction-related costs if an applicant makes a hold harmless commitment, as we have noted in the preceding paragraphs, capital costs of facilities that are used and useful and provide service to customers would normally be recoverable in rates under general ratemaking principles, unless the capital costs fall within one of the categories discussed above (*e.g.*, capital costs related to mitigation measures), in which case they would be subject to the

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[93] *See infra* PP 92–95.

[94] *Ameren*, 145 FERC ¶ 61,034 at P 97, n.99.

[95] *Id.*

[96] *See, e.g.*, Final Audit Report: Audit of Formula Rates, Transmission Incentives, and Demand Response at Baltimore Gas and Electric Company, Docket No. FA13–13–000 at 17–18 (2015) (noting inappropriate recovery of internal labor costs in transmission rates).

[97] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 23.

[98] The costs incurred to consummate a merger transaction are considered to be nonoperational in nature and, to the extent recorded on a jurisdictional entity's books, should be included in a non-operating expense account—Account 426.5, Other Deductions. 18 CFR pt. 101 (2015).

applicant's hold harmless commitment. Moreover, under our accounting rules, when electric plant constituting an operating system is purchased, the costs of acquisition, including expenses incidental thereto, are properly includible in electric plant and charged to Account 102, Electric Plant Purchased or Sold.[99] Thus, in the situation Southern Company posits, the real question is what portion of the costs associated with an RFP process, including costs incurred pursuing bids that are ultimately unsuccessful, would be properly includible in the costs of the facility that is acquired. To the extent all or some portion of those costs are included in the cost of the facility that is acquired, and assuming that the facility is used and useful and provides service to customers, they would normally be recoverable as capital costs associated with that facility and, therefore, not be subject to any hold harmless commitment that is made.

#### e. Request for Guidance on Savings

59. Regarding transaction-related savings, we decline to allow the netting of benefits from future transactions against the transaction-related costs of past transactions, as EEI suggests. The Commission has previously confined its analysis regarding the effect on rates to the transaction that is the subject of the application.[100] Applicants are not required to create separate records to measure savings if they do not intend to recover transaction-related costs from ratepayers. Furthermore, we decline to speculate on the scope and definition of transaction-related savings that applicants may offer in a subsequent FPA section 205 filing in order to recover transaction-related costs covered by a hold harmless commitment given that we have received a limited number of FPA section 205 filings seeking to recover transaction-related costs by showing offsetting savings. Applicants may choose the most appropriate method to calculate savings so long as the savings can be shown to result from the transaction. We will review these filings on a case-by-case basis.

### *B. Controls and Procedures To Track and Record Costs Related to Hold Harmless Commitments*

#### 1. Proposal

60. In the Proposed Policy Statement the Commission proposed to clarify that all applicants offering hold harmless commitments should implement appropriate internal controls and procedures to ensure the proper identification, accounting, and rate treatment of all transaction-related costs incurred prior to and subsequent to the announcement of a proposed transaction, including all transition costs.[101]

61. Specifically, the Commission noted that applicants are required to describe in their FPA section 203 applications how they intend to protect ratepayers from transaction-related costs, consistent with their obligation to show that their transaction is consistent with the public interest.[102] As contemplated in the Merger Policy Statement, a hold harmless commitment offered by applicants must be "enforceable and administratively manageable." [103] Therefore the Commission proposed that in creating an enforceable and administratively manageable commitment, applicants should provide assurances that transaction-related costs will be quantified, documented, and verified, and may not be recovered from ratepayers until applicants can demonstrate that savings, if any, offset the transaction-related costs they seek to recover. To this end, the Commission has required that applicants offering hold harmless commitments establish internal controls and/or tracking mechanisms.[104] In the Proposed Policy Statement, the Commission proposed the following additional guidance regarding these requirements.

62. First, the Commission proposed to clarify that all applicants offering hold harmless commitments should implement appropriate internal controls and procedures to ensure the proper identification, accounting, and rate treatment of all transaction-related costs incurred prior to and subsequent to the announcement of a proposed transaction, including all transition costs.[105]

63. Second, the Commission proposed that applicants offering hold harmless commitments should include, as part of their FPA section 203 applications and any separate FPA section 205 filings seeking to recover transaction-related costs, a detailed description of how they define, designate, accrue, and allocate transaction-related costs, and explain the criteria used to determine which costs are transaction-related. Applicants should specifically identify and describe their direct and indirect cost classifications, and the processes they use to functionalize, classify and allocate transaction-related costs. In addition, applicants should explain the types of transaction-related costs that will be recorded on their public utilities' books; how they determined the portion of these costs assigned to their public utilities; and how they classify these costs as non-operating, transmission, distribution, production, and other. Applicants should also describe their accounting procedures and practices, and how they maintain the underlying accounting data so that the allocation of transaction-related costs to the operating and non-operating accounts of their public utilities is readily available and easily verifiable.[106]

64. The Commission noted that it had, in the past, required applicants to submit their final accounting entries associated with transactions within six months of the date that the transaction is consummated.[107] The Commission proposed to require applicants subject to the Commission's accounting regulations to provide, as a part of this accounting filing, the accounting entries and amounts related to all transaction-related costs incurred as of the date of the accounting filing, along with narrative explanations describing the entries.[108]

#### 2. Comments

65. EEI requests clarifications and changes related to the Commission's proposed accounting treatment. EEI encourages the Commission to have applicants "simply identify succinctly how they plan to categorize and handle the costs, in conformance with the Uniform System of Accounts . . . ." [109] EEI asserts that applicants should be able to rely on the accounting systems they already have in place without having to explain the design and use of those systems, as their accounting practices are already overseen by the Commission.[110] EEI asserts the Commission should specify that if transaction costs are reasonably projected to be minor or below a certain

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[99] 18 CFR pt. 101 (2015).

[100] *See BHE Holdings, Inc.*, 133 FERC ¶ 61,231 at P 40 (focusing on "costs related to the instant transaction for purposes of the Commission's section 203 analysis").

[101] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 29.

[102] *See* Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,914.

[103] Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,124.

[104] *See Silver Merger Sub, Inc.*, 145 FERC ¶ 61,261, at P 78 (2013); *ITC Holdings Corp.*, 143 FERC ¶ 61,256, at P 168 (2013).

[105] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 30.

[106] *Id.* P 31.

[107] *See, e.g., Central Vermont Public Service Corp.*, 138 FERC ¶ 61,161, at P 55 (2012).

[108] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 32.

[109] EEI Comments at 19.

[110] *Id.*

threshold, the costs need not be tracked, as the cost of tracking them would exceed the benefit.[111] EEI also encourages the Commission to extend the deadline for submitting accounting to one year rather than six months as the information may take more than six months to be verified and the extra time would lead to a more complete filing.[112]

66. Noting that the Commission seeks to require applicants to track and record costs that may be incurred even prior to a public announcement of any proposed transaction, EPSA states it does not understand how the Commission can recognize that it can be challenging to accurately track, record and categorize all transaction-related costs but also require applicants to keep accurate accounting of such information, particularly in the early stages of a negotiation.[113] EPSA states the proposed requirement is not only premature, but extremely difficult to implement, administratively burdensome, and costly.[114] EPSA states that this requirement is more appropriate after a public announcement of a transaction. Therefore, EPSA requests that the Commission not require tracking of transaction-related costs incurred prior to the announcement of a transaction.[115]

67. APPA and NRECA, Transmission Access Policy Study Group, and Transmission Dependent Utilities support the Commission's proposed tracking requirements.[116] Specifically, APPA and NRECA support the Commission's proposal that the internal controls and procedures should be detailed in the FPA section 203 applications and any related FPA section 205 rate filing.[117] Transmission Access Policy Study Group states that internal controls are both feasible and essential and are good housekeeping, consistent with the practice of regulated utilities to operate pursuant to systems of accounts and fundamental to honoring hold harmless commitments.[118] Transmission Dependent Utilities support the tracking requirements because the clarifications will help ensure that transaction-related costs will be quantified, documented, and verified and ensure that transaction-related costs will not be recovered from ratepayers until applicants demonstrate offsetting savings.[119] Transmission Dependent Utilities assert that these requirements will result in fewer compliance difficulties, will reduce disputes about cost recovery, and will simplify the Commission's administration of hold harmless conditions by providing a clearer picture of each public utility's compliance efforts.[120]

### 3. Commission Determination

68. We will withdraw the Commission's proposal requiring applicants to describe their accounting procedures and practices, and how they maintain the underlying accounting data for the transaction. As EEI suggested, applicants should be able to rely on their accounting systems without having to explain the design and use of those systems in the FPA section 203 filing. However, we will adopt the Commission's proposal regarding establishing controls and procedures for transaction-related costs subject to the hold harmless commitment, regardless of the projected amount of the costs of the transaction. We will also adopt the proposal that applicants offering hold harmless commitments should include in the FPA section 203 application a description of how they define, designate, accrue, and allocate transaction-related costs. Applicants should also explain the criteria used to determine which costs are transaction-related.

69. Applicants that make a hold harmless commitment must make clear, at minimum, what they are committing to and have the ability to record and track such costs. A well-documented methodology and system to account for such costs also facilitates uniformity in practice and reduces confusion in how the hold harmless commitments are applied. Additionally, if applicants choose to seek recovery of those costs in a separate FPA section 205 filing, proper documentation is necessary for determining the appropriateness of the recovery. Moreover, proper documentation of these costs will provide for the avoidance of ongoing litigation which has been voiced as a concern by commenters.[121]

70. We will continue to require that applicants submit their final accounting entries associated with transactions within six months of the date that the transaction is consummated. We will also adopt the Commission's proposal to require applicants subject to the Commission's accounting regulations to provide, as a part of this accounting filing, the amounts related to all transaction-related costs incurred as of the date of the accounting filing. The final accounting entries and amounts related to transaction-related costs allow the Commission to scrutinize how applicants record the transaction at the time of consummation and apply the criteria to identify transaction-related costs as of the accounting filing date. The filing does not necessarily reflect all transaction-related costs as they typically continue to be incurred well after the merger. Given that applicants should have controls and procedures in place to track these costs in a timely manner, six months should be adequate for filing the accounting entries. If additional time is needed, applicants may file a request for extension including the reasons for the requested additional time.

71. We clarify that irrespective of the date that a transaction is announced, companies required to follow the Commission's accounting regulations must have appropriate controls and procedures in place to track transaction-related costs to ensure compliance. Specifically, the Commission's long-standing policy is that costs incurred to effectuate a merger are non-operating in nature, and they should be recorded in Account 426.5, Other Deductions. Accordingly, absent a change in the Commission's accounting requirements, these costs should be tracked when they are incurred.

## *C. Time Limits on Hold Harmless Commitments*

### 1. Proposed Policy Statement Recommendations

72. The Commission proposed to reconsider whether a hold harmless commitment that is limited to five years or another specified time period adequately protects ratepayers from an adverse effect on rates.[122] Specifically, in light of the proposed treatment of certain categories of costs as transaction-related for purposes of any hold harmless commitment, the Commission's experience auditing utilities that have made hold harmless commitments, and concerns of protestors in previous FPA section 203 applications,[123] the Commission

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[111] *Id.*

[112] *Id.*

[113] EPSA Comments at 6.

[114] *Id.*

[115] *Id.*

[116] APPA and NRECA Comments at 10–11; Transmission Access Policy Study Group Comments at 1, 4; Transmission Dependent Utilities Comments at 7.

[117] APPA and NRECA Comments at 10.

[118] Transmission Access Policy Study Group Comments at 4.

[119] Transmission Dependent Utilities Comments at 7.

[120] *Id.*

[121] *See, e.g.,* AEP Comments at 10; EEI Comments at 7, 10; Southern Company Comments at 9, 12.

[122] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 34.

[123] *See, e.g., PNM Resources, Inc.,* 124 FERC ¶ 61,019, at P 36 (2008) (protestor alleging that the

proposed to reconsider whether hold harmless commitments that are limited to five years (or another specified period) adequately protect ratepayers from any adverse effect on rates. As part of this reconsideration, the Commission stated that it believed that time-limited hold harmless commitments may not adequately protect ratepayers from transaction-related costs. Therefore, the Commission proposed that there be no time limit on hold harmless commitments and that costs subject to hold harmless commitments cannot be recovered from ratepayers at any time (regardless of when such costs are incurred), absent a showing of offsetting savings in order to demonstrate no adverse effect on rates.[124] The Commission stated that this revised approach is consistent with the Merger Policy Statement, which emphasized that the burden of proof to demonstrate that customers will be protected should be on applicants, and that applicants should also bear the risk that benefits will not materialize.[125]

2. Comments

73. Many commenters suggest that the Commission should continue to accept time limited hold harmless commitments.[126] They contend that the Commission has not shown that there is any evidence that applicants have purposely deferred costs past the end of the five-year period or otherwise evaded review that requires a change in current policy.[127] Furthermore, they assert that, if the Commission is concerned that time-limited hold harmless commitments may lead an applicant to delay incurring or recovering a transaction's costs until after the hold harmless period expires, the Commission already has tools and protections to adequately protect customers.[128] Furthermore, AEP states that the change in policy would be a reversal of the Merger Policy Statement and put the Commission back in the position of weighing the costs and benefits of mergers.[129] Commenters contend that the Commission should not adopt this policy, which will unnecessarily burden applicants at the expense of transactions that benefit customers.[130] They generally assert that the change in policy will discourage mergers, which they believe will harm customers and deter infrastructure investment.[131]

74. Commenters explain that the Commission's concerns are unwarranted because it is in the applicant's financial interest to complete integration as soon as possible to ensure a quick transition and capture synergies.[132] Furthermore, they assert that the integration of the operations of merging utilities generally occurs in the first few years after a merger.[133] They also assert that the costs associated with tracking these costs indefinitely will be burdensome and significant.[134] Commenters caution that an indefinite hold harmless commitment could incentivize entities to not pursue elimination of duplicative services and costs, which would reduce benefits to ratepayers, because the costs of such activity may be considered transition costs in perpetuity and, therefore, be unrecoverable.[135]

75. Commenters also state that any change to the Commission's practice of accepting hold harmless commitments that are limited in duration will undermine regulatory certainty.[136] They state that without a time limit the Commission creates the unnecessary risk of future litigation in which there may be attempts by protesters or the Commission to link future costs back to a previous transaction, no matter how unrelated to a transaction, and that any entity that had a merger or transaction would then need to disprove that assertion.[137] Commenters assert that without regulatory certainty investors will be unwilling to commit funds or will increase the costs of the funds they do commit, which will have an adverse effect on the costs and on the viability of transactions and utility valuations.[138] As to transaction-related capital costs, Southern Company also asserts that one would expect that at some point in time, used and useful investments should and would be included in rates, and if the Commission wishes to exclude certain assets from recovery it should use a more targeted approach than extending the hold harmless period for all transaction-related costs.[139] Others state that a transaction must be considered closed at some point in order for there to be closure for both accounting and ratemaking purposes[140] and requiring an open ended hold harmless commitment could deter "beneficial consolidation."[141] EEI states that the Commission's current standard provides ample protection for customers while also providing regulatory certainty, which is essential in a constantly changing industry.[142]

76. Commenters further explain that it will be difficult to determine if costs are transaction-related the further in time entities get from the transaction because of intervening events[143] and a changing regulatory and technological environment,[144] and that it will be difficult to untangle these costs in rates from the entity's general ongoing operations.[145] They caution that the further in time one gets from a transaction the more difficult it will become to determine what is and is not a transition cost.[146] AEP suggests that the Commission could remedy this problem either by accepting time-limited hold harmless provisions or limiting the scope of transition costs to the activities required to integrate the companies once their merger is consummated.[147]

77. AEP also notes that a hold harmless commitment with no limit on duration raises questions like: (1) How

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five-year limitation on recovery will simply result in the deferred recovery of transaction-related costs).

[124] Evidence of offsetting merger-related savings cannot be based on estimates or projections of future savings, but must be based on a demonstration of actual merger-related savings realized by jurisdictional customers. *Exelon Corp.*, 149 FERC ¶ 61,148 at P 107 (citing *Audit Report of National Grid, USA*, Docket No. FA09–10–000 (Feb. 11, 2011) at 55; *Ameren Corp.*, 140 FERC ¶ 61,034, at PP 36–37 (2012)).

[125] Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,123.

[126] *See* EEI Comments at 6; EPSA Comments at 4; Kentucky Utilities Comments at 3–4; Southern Company Comments at 9.

[127] *See generally* AEP Comments at 8–9; EEI Comments at 6; Southern Company Comments at 9–10.

[128] *See generally* AEP Comments at 9 (asserting current accounting, auditing, and ratemaking practices are adequate); EEI Comments at 9–10 (stating that current accounting rules address the Commission's concerns regarding deferral of recovery); Southern Company Comments at 11 (suggesting that the Commission's policy related to the recovery of regulatory assets is sufficient).

[129] *See* AEP Comments at 11.

[130] *See* EEI Comments at 6; EPSA Comments at 4.

[131] *See* EEI Comments at 10–11; EPSA Comments at 4.

[132] *See generally* AEP Comments at 9; EEI Comments at 8, 10.

[133] AEP Comments at 9; Southern Company at 10–11.

[134] EPSA Comments at 4; Southern Company Comments at 12 (stating that in addition to the cost of new systems, all current and future employees would have to be trained to recognize and track the costs).

[135] *See* EEI Comments at 8; EPSA Comments at 5.

[136] EEI Comments at 6.

[137] *See* AEP Comments at 10 (worrying that an open-ended commitment will spawn multiple look back proceedings); EEI Comments at 7, 10 (asserting that this will create an inappropriate evidentiary burden on applicants that may also be impossible to overcome); Kentucky Utilities Comments at 3; Southern Company Comments at 10, 12–13.

[138] *See* AEP Comments at 10, n.3; EEI Comments at 7.

[139] *See* Southern Company Comments at 11–12.

[140] *See* AEP Comments at 10; Southern Company Comments at 12.

[141] Southern Company Comments at 12.

[142] EEI Comments at 7.

[143] *See id.* at 6.

[144] *See* Kentucky Utilities Comments at 3.

[145] *See* AEP Comments at 10; EEI Comments at 7.

[146] *See* Kentucky Utilities Comments at 3; Southern Company Comments at 13.

[147] AEP Comments at 10.

do you measure how much of a cost incurred 15 years after a merger was attributable to merger "integration" as opposed to normal utility operations; (2) if merger "integration" costs can still be incurred decades after the transaction closed, can merger "savings" still be accruing over that same period; (3) how do you measure those savings; and (4) would companies need to maintain shadow books for the unmerged companies for the rest of time to prove the savings that resulted from the merger?[148]

78. EEI asserts that a time-limited commitment is consistent with U.S. generally accepted accounting principles, which recognize that transactions end when all costs, assets, and liabilities have been recorded.[149] EEI states that the Commission should recognize that there is a finite transition period following a transaction and five years is a reasonable time frame in which one could expect that a company would complete its transition and integration.[150] EEI asserts that the Commission should also recognize a commitment of less than five years may be appropriate for "relatively minor" transactions and that an indefinite hold harmless commitment is simply unreasonable.[151]

79. APPA and NRECA, Transmission Access Policy Study Group, and the Transmission Dependent Utilities support the Commission's proposal not to accept time-limited hold harmless commitments.[152] These commenters state that the Commission should focus on whether a cost is transaction-related, not on when it was incurred or when recovery is sought.[153]

80. APPA and NRECA state that unlimited duration hold harmless commitments will not impose a significant additional burden on applicants because most transition costs are incurred in the first few years after the merger is consummated.[154] Furthermore, to the extent that a longer commitment may lead to an additional burden on applicants, APPA and NRECA state that this burden is reasonable because it would mean that transaction-related costs continued to be incurred and offsetting merger savings failed to materialize.[155] Transmission Dependent Utilities state that time-limited commitments provide incentives for utilities to make inefficient spending and rate recovery decisions while failing to provide full protection to ratepayers.[156] Therefore, Transmission Dependent Utilities assert that eliminating any time limit on a hold harmless commitment is in the public interest because it will bring greater certainty to the electric markets regarding costs subject to recovery in the future.[157]

### 3. Commission Determination

81. After careful consideration of the comments, we withdraw our proposal to no longer accept time-limited hold harmless commitments and will continue to accept hold harmless commitments that are time limited as a method to show no adverse effect on rates. We agree with certain commenters that there is a tradeoff between the articulation of transaction-related costs adopted in section II.A above[158] and the duration of a hold harmless commitment, as there is less of a nexus between activities that are identified as transition costs and the transaction as time passes. While the Commission intends to ensure that ratepayers are adequately protected from potential adverse effects on rates, a hold harmless commitment must also be administratively manageable.

82. As some commenters note, as time passes, it becomes more difficult to distinguish actions taken, and related expenditures, to integrate the operations and assets of newly-merged companies from the conduct of an applicant's normal business activities, and it becomes more difficult to determine which costs share a nexus with the transaction and should thus be subject to an offered hold harmless commitment. Future actions, such as engineering studies, taken in the normal course of business need to be distinguished from those undertaken to effectuate the transaction for the duration of the hold harmless commitment. If we were to adopt the proposal to no longer accept time-limited hold harmless commitments, applicants may be required to make these distinctions years removed from a transaction. As both commenters who support and oppose time limits on any hold harmless commitment recognize, the majority of these costs are incurred in the first five years after the closing of the transaction. At this time we do not find that there is sufficient evidence to conclude that applicants are indeed incurring substantial transaction-related costs after five years.

83. Therefore, we find that the articulation of transaction-related costs set forth in section II.A above, paired with the incentive of applicants to achieve integration and transaction related synergies as soon as possible, adequately protect ratepayers while providing applicants with regulatory certainty that a time-limited hold harmless commitment will not result in endless litigation regarding costs incurred after a transaction is consummated. We intend hold harmless commitments to avoid protracted litigation while at the same time protecting customers from the uncertain costs incurred to complete transactions.

84. In response to EEI's view that a commitment of less than five years may be appropriate for what EEI terms "relatively minor" transactions, as we stated in the Proposed Policy Statement, the Commission has found hold harmless commitments under which applicants commit not to seek to recover transaction-related costs except to the extent that such costs are exceeded by demonstrated transaction-related savings for a period of five years to be "standard."[159] While applicants may nevertheless propose hold harmless commitments of any number of years, we caution that applicants retain the burden of demonstrating that proposed ratepayer protections are adequate.[160] Applicants must adequately support and demonstrate that any commitment they propose provides adequate ratepayer protection when compared to other ratepayer protection mechanisms, including the offer of a five year hold harmless period that has become the norm in the industry.

## *D. Transactions Without an Adverse Effect on Rates*

### 1. Proposed Policy Statement Recommendations

85. The Commission noted in the Proposed Policy Statement that some applicants have made hold harmless commitments in connection with

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[148] *Id.*

[149] EEI Comments at 8.

[150] *Id.* at 9.

[151] *Id.*

[152] APPA and NRECA Comments at 11; Transmission Access Policy Study Group Comments at 2; Transmission Dependent Utilities Comments at 8.

[153] APPA and NRECA Comments at 11; Transmission Dependent Utilities Comments at 7–8.

[154] APPA and NRECA Comments at 11.

[155] *Id.*

[156] Transmission Dependent Utilities Comments at 7.

[157] *Id.*

[158] *See supra* PP 44–58.

[159] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 12 (citing *ITC Holdings Corp.*, 121 FERC ¶ 61,229, at P 128 (2007)). Although five-year hold harmless commitments are most common, the Commission has also accepted three-year hold harmless commitments. *Id.* n.21 (citing *Westar Energy, Inc.*, 104 FERC ¶ 61,170, at PP 16–17 (2003); *Long Island Lighting Co.*, 82 FERC ¶ 61,129, at 61,463–65 (1998)).

[160] Order No. 642, FERC Stats. & Regs. ¶ 31,111 at 31,914.

transactions involving the acquisition of existing jurisdictional facilities where the acquiring entity is a traditional franchised utility and is entering into the transaction in order to satisfy resource adequacy requirements at the state level, to improve system reliability, and/or meet other regulatory requirements.[161] Furthermore, the Commission noted that, while customers in these examples may experience a rate increase due to the costs of the facilities, such rate effect may not necessarily be adverse because those costs were incurred to meet a governmental regulatory requirement. The Commission stated that it has held that, as a general matter of policy, ratepayers should bear the cost of utility service.[162]

86. The Commission proposed to clarify that applicants undertaking certain types of transactions to fulfill documented utility service needs may not need to offer a hold harmless commitment in order to show that the transaction does not have an adverse effect on rates.[163] Specifically, the Commission stated that it believed that applicants engaging in these types of transactions can make the requisite showing that, even though the proposed transaction may have an effect on rates, such effect on rates is not adverse.

87. The Commission noted several examples of transactions in which applicants may demonstrate no adverse effect on rates without offering a hold harmless commitment or other ratepayer protection mechanism, including the purchase of an existing generating plant or transmission facility that is needed to serve the acquiring company's customers or forecasted load within a public utility's existing footprint, in compliance with a resource planning process, or to meet specified North American Electric Reliability Corporation (NERC) standards. The Commission proposed that applicants seeking to demonstrate that a transaction will not have an adverse effect on rates for these or other reasons should provide supporting evidence and documentation which could include an explanation that the transaction is intended to serve existing customers or forecasted load within an existing footprint; to address a state commission order or directive requiring acquisition of specific assets; to address a need for a transmission facility, as established through a regional transmission planning process or as required to satisfy a NERC standard; or to address other state or federal regulatory requirements.[164] Under the clarification proposed therein, however, the Commission stated that a hold harmless commitment would not need to be offered in order to show that the transaction would not have an adverse effect on rates.

88. The Commission proposed that applicants may make a showing that a particular transaction does not have an adverse effect on rates based on other grounds, but the burden remains on applicants to show in their application for authorization under FPA section 203 that the costs, or a portion of the costs, related to such a transaction should be passed on to ratepayers. Further, the Commission proposed that applicants may provide the Commission with information to show the need to meet other regulatory requirements as a means to demonstrate that the effect on rates due to the transaction is not adverse. The Commission proposed that it would carefully review such a showing before determining that a proposed transaction without any proposed ratepayer protection mechanism has no adverse effect on rates.

2. Comments

89. Several commenters support the Commission's proposal that hold harmless commitments may not be necessary for certain categories of transactions when undertaken to provide utility service for which ratepayers should bear cost responsibility.[165] Several parties recommend that the Commission more directly and clearly acknowledge that hold harmless commitments are not always necessary and that the Proposed Policy Statement does not mandate their inclusion in every FPA section 203 application.[166] EEI states that each transaction is unique and suggests that the need for and role of a hold harmless commitment will vary.[167] Additionally, commenters request that the Commission clarify that the circumstances articulated in the Proposed Policy Statement for when a hold harmless commitment may not be necessary are not exclusive or comprehensive,[168] and that the examples given were intended to be illustrative and will be interpreted broadly.[169]

90. Other commenters request that the Commission clarify that it does not intend to identify certain categories of transactions that do not have an adverse effect on rates or transactions that do not require ratepayer protection mechanisms.[170] These commenters seek confirmation that the Commission is stating only that applicants may make a showing for any FPA section 203 transaction that there is no adverse effect on rates based on case-specific evidence, and as such those applicants need not offer a hold harmless commitment if they have otherwise met their burden of proof to make such a demonstration.[171] Furthermore, APPA and NRECA urge the Commission to proceed with caution and avoid reducing the requirement of showing no adverse effect on rates to an exercise where any claimed, non-quantifiable benefits from a transaction are determined to outweigh rate increases.[172]

91. Similarly, the Transmission Dependent Utilities also urge the Commission not to exempt certain transactions from the requirement to adopt ratepayer protection mechanisms and state that the proposal undercuts the other ratepayer protection mechanisms proposed in the Proposed Policy Statement.[173] They assert that the Commission should not adopt the proposal because: (1) Practically any asset transaction could meet the Commission's proposed standard as nearly any such transaction could be deemed necessary to serve existing or forecasted load or to satisfy at least one federal or state regulatory requirement; (2) wholesale customers may derive no

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[161] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 39. *See, e.g., FirstEnergy,* 141 FERC ¶ 61,239 at PP 1, 16, 27–30 (accepting a hold harmless commitment in an asset transaction where generation assets would be turned into assets to support transmission system upgrades in order to meet needs identified in a study by PJM Interconnection, L.L.C. following the retirement of other generating facilities); *ITC Midwest,* 140 FERC ¶ 61,125 at P 15; *Int'l Transmission Co.,* 139 FERC ¶ 61,003 at P 16.

[162] *See, e.g., Old Dominion Elec. Cooperative and N.C. Elec. Membership Corp.* v. *Va. Elec. and Power Co.,*146 FERC ¶ 61,200 (2014).

[163] Proposed Policy Statement, 150 FERC ¶ 61,031 at P 40.

[164] *Id.* P 41.

[165] *See* AEP Comments at 13; EEI Comments at 12; EPSA Comments at 3; Kentucky Utilities Comments at 4; Southern Company Comments at 3; Transmission-Only Companies Comments at 1.

[166] *See* EEI Comments at 11 (contending that it is not clear how the different sections of the document interact); Kentucky Utilities Comments at 5.

[167] EEI Comments at 11–12 (suggesting additional exemptions such as a transaction where the benefits outweigh any potential negative effects, or those negative effects may be *de minimis*).

[168] EPSA Comments at 3; Southern Company Comments at 4.

[169] Kentucky Utilities Comments at 5.

[170] *See* APPA and NRECA Comments at 12; Transmission Access Policy Study Group Comments at 6.

[171] *See* APPA and NRECA Comments at 12–13; Transmission Access Policy Study Group Comments at 8–9.

[172] APPA and NRECA Comments at 14.

[173] *See* Transmission Dependent Utilities Comments at 8–9.

benefits from transactions that satisfy state resource adequacy requirements; (3) FPA section 215 [174] prohibits reliability standards from including any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity and therefore, the Commission should not grant a special exemption from adopting ratepayer protection mechanisms to utilities that purchase facilities in order to comply with NERC standards; and (4) the premise that an increase in rates may not be adverse because of the reason for the transaction is flawed.[175] The Transmission Dependent Utilities state that no such exemption is needed because to the extent that such a transaction provides for benefits to wholesale ratepayers, applicants should be able to demonstrate such benefits or savings exceed the transaction-related costs.[176]

92. Some commenters also identified other types of transactions that may have a rate impact, but not one that is adverse, and therefore should not require any additional ratepayer protection. These commenters request that the Commission clarify that, in addition to transactions involving purchases of existing generation facilities, a hold harmless commitment may also be unnecessary in connection with: (1) Purchases of existing transmission facilities that provide benefits, such as added capacity or increased reliability; [177] (2) transactions consummated under a blanket authorization; [178] (3) transactions that involve necessary contract rights or other jurisdictional assets, rather than physical facilities; [179] (4) transactions undertaken in order to comply with any other federal or state regulatory framework; [180] (5) transactions with "no identified or reasonably *de minimis* costs, such as internal reorganizations or restructurings;" [181] (6) transactions involving the transfer of non-energized turn-key facilities; [182] and (7) acquisitions of non-jurisdictional transmission assets by a transmission-only company.[183]

93. EPSA requests that the Commission reaffirm its policy that there is no adverse effect on rates and that no hold harmless commitment is required where an applicant's cost-based rates do not allow for automatic pass-through of transaction-related costs because applicants can only recover transaction-related costs through a filing under FPA section 205 in such circumstances.[184] EPSA also asks that the Commission recognize that particular types of rate schedules, including schedules and agreements for reliability must run, reactive power/voltage control, and restoration services, do not allow for automatic pass-through of costs.[185]

3. Commission Determination

94. We clarify that the Commission does not intend to exempt classes of transactions that require authorization under FPA section 203 from the requirement to make a showing of no adverse effect on rates. Our intention is to make it clear that, under the Merger Policy Statement, a hold harmless commitment is just one of several ratepayer protection mechanisms that may be appropriate in a given case, but that a hold harmless commitment (or other ratepayer protection) may be unnecessary for some categories of transactions.[186] In addition, we reaffirm that a hold harmless commitment is not a requirement for an FPA section 203 application; in cases in which some form of ratepayer protection may be appropriate, applicants may offer other forms of ratepayer protection to demonstrate that the transaction has no adverse effect on rates.[187] This observation does not relieve applicants of their obligation to demonstrate that the proposed transaction does not have an adverse effect on rates based on the circumstances of their transaction or to offer ratepayer protection mechanisms where appropriate.[188] Further, the burden of demonstrating that any given transaction presents no adverse effect on rates continues to lie with the applicants.[189]

95. For example, certain rate schedules do not contain a mechanism that would allow an applicant to pass on transaction-related costs.[190] Although it would be unnecessary to make any hold harmless commitment in connection with such a transaction, the applicant would nonetheless have to demonstrate how the rate schedule precludes passing on transaction-related costs to customers. Furthermore, if applicants believe the transaction for which they seek approval provides needed benefits to customers, they may choose to make such a showing.

96. The transactions we identified in the Proposed Policy Statement (*i.e.*, documented utility needs such as the purchase of an existing generating plant or transmission facility that is needed to serve the acquiring company's customers or forecasted load within a public utility's existing footprint, in compliance with a resource planning process, or to meet specified NERC standards), were only illustrative, and not intended to be an all-inclusive list. As a result, we do not adopt the suggestion by some commenters that the Commission identify other types of transactions that may not require a hold harmless commitment. We emphasize that, in all cases, applicants have the burden of demonstrating that a proposed transaction will have no adverse effect on rates. A hold harmless commitment or other form of ratepayer protection is only called for in those instances where an applicant cannot otherwise meet this burden.

97. Finally, we note that the Transmission Dependent Utilities misapprehend the statement in the Proposed Policy Statement regarding transactions involving acquisitions of existing facilities to fulfill a NERC reliability standard. Nothing in this Policy Statement requires an entity to acquire or invest in facilities. Instead, this Policy Statement states that if an entity acquires a facility to fulfill a requirement of a NERC reliability standard and it seeks approval under FPA section 203 for that transaction, the

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[174] 16 U.S.C. 824o(a)(3) (2012).

[175] *See* Transmission Dependent Utilities Comments at 9–10.

[176] *See id.* at 11.

[177] Southern Company Comments at 3.

[178] EEI Comments at 12.

[179] Kentucky Utilities Comments at 5.

[180] *Id.* at 5–6 (including environmental, antitrust, market power regulation, energy efficiency standards, or portfolio standards).

[181] *Id.* at 6.

[182] *See* AEP Comments at 14; Southern Company Comments at 4.

[183] Transmission-Only Companies Comments at 1. The Transmission-Only Companies explain that their business model itself carries benefits and will further Commission policy. *Id.* at 5–6.

[184] EPSA Comments at 3 (citing *NRG Energy Holdings*, 146 FERC ¶ 61,196 at P 87).

[185] *Id.* at 3–4.

[186] *See, e.g., Pub. Serv. Co. of New Mexico*, 153 FERC ¶ 61,377 at P 39 (finding that there was no adverse effect on wholesale requirements customers because those customers receive service under long-term, Commission-approved contracts with stated rates whose terms would not change a result of the proposed transaction and cannot change absent a filing under FPA section 205 with the Commission to change those rates); *NRG Energy Holdings*, 146 FERC ¶ 61,196 at P 87 (finding that there was no adverse effect on wholesale rate because applicants would continue to make wholesale sales at market-based rates or at cost-based rates, under which applicants had no ability to pass through any increased costs resulting from the proposed transaction).

[187] Merger Policy Statement, FERC Stats. & Regs. ¶ 31,044 at 30,123–24.

[188] *See id.*

[189] *Id.* at 30,123.

[190] *See, e.g., Pub. Serv. Co. of New Mexico*, 153 FERC ¶ 61,377 at P 39 (finding that there was no adverse effect on wholesale requirements customers because those customers receive service under long-term, Commission-approved contracts with stated rates whose terms would not change a result of the proposed transaction and cannot change absent a filing under FPA section 205 with the Commission to change those rates).

entity may present evidence that the transaction's effect on rates is not an adverse effect on rates instead of offering a hold harmless commitment.

### *E. Other Issues Raised*

1. Comments

98. EEI states that the Commission's FPA section 203 analysis already protects customers well.[191] EEI asserts that the Commission's current regulations and guidance already ensure that the proper information to examine and address potential effects on customers and markets is required to be provided to the Commission.[192] EEI states that it appreciates the Commission's goal of providing clarity, but it encourages modification of the proposal so that any policy the Commission adopts "puts use of the commitments in perspective within the [FPA] section 203 process and is fair and workable." [193] EEI asserts that the structure of the Proposed Policy Statement does not clearly identify what the text of the proposed policy is, which it asserts is essential for readers to understand and comment on the proposal.[194] EEI further asserts that given the fundamental changes it suggested to the Proposed Policy Statement, the Commission should respond to those suggestions, re-notice the statement and provide a chance for entities to provide additional feedback.[195]

99. EEI and EPSA ask the Commission to clarify that it will not apply any new requirements set out in this Policy Statement to pending or previously-approved section 203 transactions, even if there is a subsequent related FPA section 205 filing.[196] EEI states that parties have structured pending or previous transactions based on the then-applicable review process and it would be "manifestly unfair" to apply new conditions on parties after they have submitted their applications.[197] EPSA states that its members and other market participants seek clarity that any such filings would not be evaluated against any new requirements or policies implemented in a final Policy Statement, but under the policies in existence at the time the relevant transaction was approved.[198]

2. Commission Determination

100. We will apply all changes contained in this Policy Statement on a prospective basis, effective 90 days after publication of this Policy Statement in the **Federal Register**, for applications submitted on and after that effective date. The guidance herein does not alter existing hold harmless commitments accepted by the Commission nor does it modify hold harmless commitments in applications pending at the time of issuance of this Policy Statement. Finally, we decline EEI's request that the Commission refine and reissue the Proposed Policy Statement to allow for additional feedback. The Policy Statement has incorporated and addressed suggestions by commenters, clarifies the scope and definition of the costs that should be subject to hold harmless commitments, and provides general guidance to be implemented on a case-by-case basis.

## III. Information Collection Statement

101. The Paperwork Reduction Act (PRA) [199] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements imposed by agency rules.[200] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control numbers. The following table shows the Commission's estimates for the additional burden and cost,[201] as contained in the Policy Statement:

REVISIONS, IN THE POLICY STATEMENT IN DOCKET NO. PL15–3

| Requirements | Number and type of respondents<br>(1) | Number of responses per respondent<br>(2) | Total number of responses<br>(1) * (2) = (3) | Average burden hours & cost per response<br>(4) | Total burden hours & total cost<br>(3) * (4) |
|---|---|---|---|---|---|
| FERC–519 (FPA Section 203 Filings) [202]. | 18 | 1 | 18 | 20 hrs.; $1,440 | 360 hrs.; $25,920. |
| FERC–516 (FPA Section 205, Rate and Tariff Filings). | 1 | 1 | [203] 1 | 103.26 hrs.; $7,434.72 | 103.26 hrs.; $7,434.72. |
| FERC–555, Record Retention | 18 | 1 | 18 | 4 hrs.; $288 | 72 hrs.; $5,184. |
| Total | | | | | 535.26 hrs.; $38,538.72. |

*Title:* FERC–519, Application under Federal Power Act Section 203; FERC–516, Electric Rate Schedules and Tariff Filings; and FERC–555, Preservation of Records for Public Utilities and Licensees, Natural Gas and Oil Pipeline Companies.

*Action:* Revised Collections of Information.

*OMB Control No:* 1902–0082 (FERC–519), 1902–0096 (FERC–516), and 1902–0098 (FERC–555).

*Respondents:* Business or other for profit, and not for profit institutions.

*Frequency of Responses:* As needed and ongoing.

*Necessity of the Information:* To protect ratepayers and to mitigate possible adverse effects on rates that may result from mergers or certain other transactions that are subject to section

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[191] EEI Comments at 3

[192] *Id.* at 5.

[193] *Id.* at 6.

[194] *Id.* at 20.

[195] *Id.*

[196] *Id.;* EPSA Comments at 6.

[197] EEI Comments at 20.

[198] EPSA Comments at 6–7.

[199] 44 U.S.C. 3501–3520.

[200] *See* 5 CFR 1320.

[201] The hourly cost figures are based on data for salary plus benefits. The Commission staff thinks that industry is similarly situated to FERC in terms of the average cost of a full time employee. Therefore, we are using the 2015 FERC hourly average for salary plus benefits of $72 per hour.

[202] Commission staff estimates that, due to the Policy Statement, 18 of the FPA Section 203 filings will take 20 additional burden hours. The estimated number of filings is not changing.

[203] Commission staff estimates that one FPA section 205 filing may be made annually subject to the Policy Statement.

203 of the FPA, we propose clarifications and additional information collection requirements related to hold harmless commitments offered by applicants.

*Internal review:* The Commission has reviewed the changes included in the Policy Statement and has determined that the additional reporting and recordkeeping requirements are necessary.

Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873].

## IV. Document Availability

102. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

103. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

104. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By the Commission.

Issued: May 19, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–12426 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL00–95–291; EL00–98–263]**

## San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Notice of Compliance Filing

Take notice that on May 4, 2016, the California Independent System Operator Corporation submitted its Refund Rerun Compliance Filing pursuant to the Federal Energy Regulatory Commission's (Commission) July 15, 2011 Order Accepting Compliance Filings and Providing Guidance.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 25, 2016.

Dated: May 20, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12409 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 14776–000]**

## Town of Payson, AZ; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 14776–000.

c. *Date filed:* April 20, 2016.

d. *Applicant:* Town of Payson, AZ.

e. *Name of Project:* C.C. Cragin Raw Water Supply Line Small Conduit Hydroelectric Project.

f. *Location:* The proposed C.C. Cragin Raw Water Supply Line Small Conduit Hydroelectric Project would be located on the Payson Water supply line in Gila County, Arizona.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. LaRon Garrett, Payson Public Works, 303 Beeline Hwy, Payson, AZ 85541; phone (928) 474–5242, *lgarrett@ci.payson.az.us.*

i. *FERC Contact:* Robert Bell, (202) 502–6062, *robert.bell@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* The Commission directs, pursuant to section 4.34(b) of the Regulations (see Order No. 533, issued May 8, 1991, 56 FR 23,108 (May 20, 1991)) that all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions concerning the application be filed with the Commission: 60 days from the issuance of this notice. All reply comments must be filed with the Commission: 105 days from the issuance of this notice.

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[1] *San Diego Gas & Elec. Co.* v. *Sellers of Energy and Ancillary Servs.,* 136 FERC ¶ 61,036 (2011).

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14776–000.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of the project:* The proposed C.C. Cragin Raw Water Supply Line Small Conduit Hydroelectric Project would consist of: (1) A proposed powerhouse containing one proposed generating unit with an installed capacity of 200 kilowatts placed in the 18-inch-diameter water supply pipeline; and (2) appurtenant facilities. The applicant estimates the project would have an average annual generation of 1.256 gigawatt-hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the "eLibrary" link. Enter the docket number, P–14776, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. *Development Application*—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

p. All filings must (1) bear in all capital letters the title "PROTEST," "MOTION TO INTERVENE," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading, the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and seven copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 20, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12412 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. CP16–454–000, CP16–455–000, PF15–14–000]**

### Rio Grande LNG, LLC, Rio Bravo Pipeline Company, LLC; Notice of Application

Take notice that on May 5, 2016, Rio Grande LNG, LLC (Rio Grande), 3 Water-way Square Place, Suite 400, The Woodlands, Texas 77380, filed an application, in Docket No. CP16–454–000, pursuant to section 3(a) of the Natural Gas Act (NGA) and Part 153 of the Commission's Regulations, requesting authorization to site, construct, modify, and operate a natural gas liquefaction facility and liquefied natural gas export and truck loading terminal, located in Cameron County, Texas.

Also, take notice that on May 5, 2016, Rio Bravo Pipeline Company, LLC (Rio Bravo), 3 Waterway Square Place, Suite 400, The Woodlands, Texas 77380, filed an application pursuant to Section 7(c) of the NGA, and Parts 157 and 284 of the Commission's regulations, an application in Docket No. CP16–455–000 for (1) a certificate of public convenience and necessity (i) authorizing Rio Bravo to construct, own, and operate a natural gas pipeline system, (ii) approving a *pro forma* Tariff, and (iii) approving the proposed initial rates for service; (2) a Part 157, Subpart F blanket certificate authorizing Rio Bravo to engage in certain self-implementing routine activities; and (3) a Part 284, Subpart G blanket certificate authorizing Rio Bravo to transport natural gas, on an open access and self-implementing basis.

These filings may be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free (886) 208–3676 or TYY (202) 502–8659.

Any questions regarding this application should be directed to Shaun Davison, Senior Vice President, Rio Grande LNG, LLC/Rio Bravo Pipeline Company, LLC, 3 Waterway Square Place, Suite 400, The Woodlands, Texas

77380, (832) 403–3040, *shaun@riobravopipeline.com*, or Erik J.A. Swenson, Norton Rose Fulbright US LLP, 799 9th Street NW., Suite 1000, Washington, DC 20001–4501, (202) 662–4555, *erik.j.a.swenson@nortonrosefulbright.com*, with written and electronic correspondence copied to Krysta De Lima, General Counsel, Rio Grande LNG, LLC/Rio Bravo Pipeline Company, LLC, 3 Waterway Square Place, Suite 400, The Woodlands, Texas 77380, *krysta@riobravopipeline.com*.

Specifically, Rio Grande proposes to construct an LNG export terminal on the Port of Brownsville ship channel. The terminal will consist of six liquefaction trains with a total capacity of 3.6 Bcf per day, four LNG tanks capable of storing 15.26 Bcf of LNG, marine and truck loading facilities, and all necessary ancillary and support facilities.

Rio Bravo proposes to construct 139.4 miles of pipeline, three compressor stations and two booster stations totaling 600,000 hp, and associated facilities to deliver up to 4.5 Bcf per day of natural gas from the Agua Dulce Market area to the Rio Grande terminal. The facilities will be located in Jim Wells, Kleberg, Kenedy, Willacy and Cameron Counties, Texas. The pipeline facilities cost an estimated $2,173,362,909.

On April 13, 2015, the Commission staff granted Rio Grande/Rio Bravo's request to use the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF15–20–000 to staff activities involving the proposed facilities. Now, as of the filing of this application on May 5, 2016, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket Nos. CP16–454–000 and CP16–455–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: 5:00 p.m. Eastern Time May 9, 2016.

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12414 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG16–105–000.

*Applicants:* Portal Ridge Solar B, LLC.

*Description:* Self-Certification of Exempt Wholesale Generator Status of Portal Ridge Solar B, LLC.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5121.

*Comments Due:* 5 p.m. ET 6/10/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–1819–015; ER10–1820–018; ER10–1818–013; ER10–1817–014.

*Applicants:* Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation, Public Service Company of Colorado, Southwestern Public Service Company.

*Description:* Notice of Change in Status of Northern States Power Company, a Minnesota corporation, et al.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5213.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER14–1485–007.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Compliance filing: Compliance filing per 4/22/2016 order in Docket Nos. EL15–18, ER14–1485 et al to be effective 12/31/9998.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5070.

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–829–001.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Limited Comment of Kansas City Power & Light Company and Nebraska Public Power District on SPP Response to Deficiency Letter.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5228.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1747–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Service Agreement No. 4460, Queue Position AA2–180 to be effective 4/20/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5067.

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–1748–000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: 2016 Revised Added Facilities Rate under TO—Filing No. 5 to be effective 1/1/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5077.

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–1749–000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: Amended LGIA Revised Added Facilities Rate Mojave Solar LLC to be effective 1/1/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5078

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–1750–000.

*Applicants:* Eastern Shore Solar LLC.

*Description:* Baseline eTariff Filing: Baseline Filing—Market-Based Rate Tariff to be effective 7/19/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5114.

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–1751–000.

*Applicants:* New York Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: NYISO 205 filing: ICAP Demand Curve Periodic Review Enhancements to be effective 7/19/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5119.

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–1752–000.

*Applicants:* Americhoice Energy OH, LLC.

*Description:* Baseline eTariff Filing: Americhoice Energy OH, LLC Market Based Rate Tariff to be effective 5/20/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5131.

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–1753–000.

*Applicants:* Americhoice Energy IL, LLC.

*Description:* Baseline eTariff Filing: Americhoice Energy IL, LLC Market Based Rate Tariff to be effective 5/20/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5134.

*Comments Due:* 5 p.m. ET 6/10/16.

*Docket Numbers:* ER16–1754–000.

*Applicants:* Americhoice Energy PA, LLC.

*Description:* Baseline eTariff Filing: Americhoice Energy, PA LLC, Market Based Rate Tariff to be effective 5/20/2016.

*Filed Date:* 5/20/16.

*Accession Number:* 20160520–5159.

*Comments Due:* 5 p.m. ET 6/10/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 20, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–12424 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RM93–11–000]**

## Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992; Notice of Annual Change in the Producer Price Index for Finished Goods

The Commission's regulations include a methodology for oil pipelines to change their rates through use of an index system that establishes ceiling levels for such rates. The Commission bases the index system, found at 18 CFR 342.3, on the annual change in the Producer Price Index for Finished Goods (PPI–FG), plus one point two three percent (PPI–FG + 1.23). The Commission determined in an *Order Establishing Index Level,*[1] issued December 17, 2015, that PPI–FG + 1.23 is the appropriate oil pricing index factor for pipelines to use for the five-year period commencing July 1, 2016.

The regulations provide that the Commission will publish annually, an index figure reflecting the final change in the PPI–FG, after the Bureau of Labor Statistics publishes the final PPI–FG in May of each calendar year. The annual average PPI–FG index figures were 200.4 for 2014 and 193.9 for 2015.[2] Thus, the percent change (expressed as a decimal) in the annual average PPI–FG from 2014 to 2015, plus 1.23 percent, is negative 0.020135.[3] Oil pipelines must multiply their July 1, 2015, through June 30, 2016, index ceiling levels by positive 0.979865[4] to compute their index ceiling levels for July 1, 2016, through June 30, 2017, in accordance with 18 CFR 342.3(d). For guidance in calculating the ceiling levels for each 12-month period beginning January 1, 1995,[5] *see Explorer Pipeline Company,* 71 FERC ¶ 61,416 at n.6 (1995).

In addition to publishing the full text of this Notice in the **Federal Register,** the Commission provides all interested persons an opportunity to view and/or print this Notice via the Internet through FERC's Home Page *(http://www.ferc.gov)* and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426. The full text of this Notice is available on FERC's Home Page at the eLibrary link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

User assistance is available for eLibrary and other aspects of FERC's

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[1] 153 FERC ¶ 61,312 at P 52 (2015).

[2] Bureau of Labor Statistics (BLS) publishes the final figure in mid-May of each year. This figure is publicly available from the Division of Industrial Prices and Price Indexes of the BLS, at 202–691–7705, and in print in August in Table 1 of the annual data supplement to the BLS publication Producer Price Indexes via the Internet at *http://www.bls.gov/ppi/home.htm.* To obtain the BLS data, scroll down to "PPI Databases" and click on "Top Picks" of the Commodity Data including "headline" FD–ID indexes (Producer Price Index—PPI). At the next screen, under the heading "Producer Price Index Commodity Data," select the box, "Finished goods—WPUFD49207," then scroll to the bottom of this screen and click on Retrieve data.

[3] $[193.9 - 200.4]/200.4 = -0.032435 + 0.0123 = -0.020135$.

[4] $1 - 0.020135 = 0.979865$.

[5] For a listing of all prior multipliers issued by the Commission, see the Commission's Web site, *http://www.ferc.gov/industries/oil/gen-info/pipeline-index.asp.*

Web site during normal business hours. For assistance, please contact the Commission's Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (email at *FERCOnlineSupport@ferc.gov*), or the Public Reference Room at 202–502–8371, TTY 202–502–8659. E-Mail the Public Reference Room at *public.referenceroom@ferc.gov.*

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12423 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Docket No. EL16–57–000]

### Constellation Power Source Generation, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On May 19, 2016, the Commission issued an order in Docket No. EL16–57–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Constellation Power Source Generation, LLC's reactive power rates for its fleet in the Baltimore Gas and Electric Zone of PJM Interconnection, L.L.C. *Constellation Power Source Generation, LLC,* 155 FERC ¶ 61,181 (2016).

The refund effective date in Docket No. EL16–57–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: May 19, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–12425 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Docket Nos. EL16–43–000; QF16–259–001]

### Bright Light Capital, LLC; Notice of Supplement To Petiton for Declaratory Order

Take notice that on May 18, 2016, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2015), Bright Light Capital, LLC (Petitioner) filed a supplement to its petition for declaratory order, filed on March 3, 2016, in response to an informal request from the Commission staff.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.or* call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern time on June 15, 2016.

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12417 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

[Docket No. ER16–1732–000]

### Aurora Generation, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Aurora Generation, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 8, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12418 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. EL16–69–000, QF16–362–001, QF16–363–001, et al.]**

## Windham Solar LLC, Allco Finance Limited; Notice of Petition for Enforcement

| Docket Nos. | |
|---|---|
| EL16–69–000 | QF16–375–001 |
| QF16–362–001 | QF16–376–001 |
| QF16–363–001 | QF16–377–001 |
| QF16–364–001 | QF16–378–001 |
| QF16–365–001 | QF16–379–001 |
| QF16–366–001 | QF16–380–001 |
| QF16–367–001 | QF16–381–001 |
| QF16–368–001 | QF16–382–001 |
| QF16–369–001 | QF16–383–001 |
| QF16–370–001 | QF16–384–001 |
| QF16–371–001 | QF16–385–001 |
| QF16–372–001 | QF16–386–001 |
| QF16–373–001 | QF16–387–001 |
| QF16–374–001 | |

Take notice that on May 19, 2016, pursuant to section 210(h)(2)(B) of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 824a–3(h), Windham Solar LLC and Allco Finance Limited filed a Petition for Enforcement requesting the Federal Energy Regulatory Commission (Commission) exercise its authority and initiate enforcement action against the Connecticut Public Utilities Regulatory Authority to remedy its implementation of PURPA, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on June 9, 2016.

Dated: May 20, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12410 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP16–461–000]**

## Southwest Gas Storage Company; Notice of Request Under Blanket Authorization

Take notice that on May 12, 2016 Southwest Gas Storage Company (Southwest), 1300 Main Street, Houston, Texas 77002 filed a prior notice request pursuant to sections 157.205, 157.208(c), 157.213(b) and 157.216(b) of the Commission's regulations under the Natural Gas Act (NGA). Southwest seeks authorization to reenter and modify one existing injection/withdrawal vertical well (the Denkhaus 2–2) and drill dual horizontal wellbore extensions in the Howell storage reservoir from the existing wellbore with the expectation of enhancing the capability of the well. The Denkhaus 2–2 well is located in Livingston County, Michigan. Southwest is not seeking any change to the Howell storage field's certificated physical parameters. Southwest proposes to perform these activities under its blanket certificate issued in Docket No. CP83–83–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this Application should be directed to Stephen T. Veatch, Senior Director of Certificates, Southwest Gas Storage Company, 1300 Main Street, Houston, Texas 77002, by calling (713) 989–2024, or fax (713) 989–1205, or by email *stephen.veatch@energytransfer.com.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the

Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the "e-Filing" link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: May 20, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12406 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Staff Attendance at South Carolina Regional Transmission Planning Meeting

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meeting of the South Carolina Regional Planning (SCRTP) Stakeholder Group, as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

SCRTP June 1, 2016 (10:00 a.m.–1:00 p.m.), SCE&G Lake Murray Training Center—Lake Murray, Lexington, SC. The facility's phone number is (803) 217–9221. The meeting is open to the public.

For more information, contact Mike Lee, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8658 or *Michael.Lee@ferc.gov.*

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12419 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### [Project No. 14752–000]

## Rivertec Partners, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 16, 2016, Rivertec Partners, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Sherman Hydroelectric Project (Sherman Project or project) to be located at the John Day Dam Juvenile Fish Sampling and Monitoring Facility (Juvenile Fish Facility) on the Columbia River near the City of Rufus in Sherman County, Oregon. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would utilize flows at the existing Juvenile Fish Facility, and would consist of the following new features: (1) A 7-foot-diameter, 55-foot-long steel penstock connecting with the Juvenile Fish Facility's existing screened excess water pipe; (2) a 71.2-foot-long, 26.2-foot-wide, 16.4-foot-high concrete and steel powerhouse; (3) a 4.2-megawatt turbine generator; (4) a 10.6-foot-diameter, 31.8-foot-long steel draft tube returning flows to the Columbia River; (5) either a 1,400-foot-long, 13.8-kilovolt (kV) transmission line interconnecting with the existing John Day Dam transformer, or an approximately 120-foot-long, 4.16-kV or 13.8-kV transmission line interconnecting with the existing Bonneville Power Administration substation; and (6) appurtenant facilities. The estimated annual generation of the Sherman Project would be 33 gigawatt-hours.

*Applicant Contact:* Mr. Mark Steinley, Rivertec Partners, LLC, 521 Thorn Street, No. 331, Sewickley, Pennsylvania 15143; phone: (480) 435–0846.

*FERC Contact:* Sean O'Neill; phone: (202) 502–6462.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 Days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14752–000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14752) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12422 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### [Project No. 14550–001—CT]

## New England Hydropower Company, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for exemption from licensing for the Hanover Pond Dam Hydroelectric Project, to be located on the Quinnipiac River, in the city of

Meriden, in New Haven County, Connecticut, and has prepared an Environmental Assessment (EA). In the EA, Commission staff analyzes the potential environmental effects of the project and concludes that issuing an exemption for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Erin Kimsey at (202) 502–8621 or *erin.kimsey@ferc.gov.*

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12420 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC10–51–002.

*Applicants:* T. Rowe Price Group, Inc.

*Description:* T. Rowe Price Group, Inc., et al. submits Request for Reauthorization and Extension of Blanket Authorizations to Acquire and Dispose of Securities under Section 203 of the Federal Power Act.

*Filed Date:* 3/3/16.

*Accession Number:* 20160303–0021.

*Comments Due:* 5 p.m. ET 6/2/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2984–026.

*Applicants:* Merrill Lynch Commodities, Inc.

*Description:* Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5166.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–974–001.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Compliance filing: 2016–05–19_SA 2898 Ameren Illinois-Ford County Wind Farm GIA (J375) Compliance to be effective 2/20/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5157.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1742–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Section 205(d) Rate Filing: Revisions to CTOA Attachment A to add ITCI as a Transmission Owner to be effective 6/1/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5163.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1743–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Cancellation: Notice of Cancellation of Service Agreement No. 2774, Queue V1–033 and W1–033 to be effective 5/11/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5164.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1744–000.

*Applicants:* Idaho Power Company.

*Description:* Section 205(d) Rate Filing: Resubmitted BPA Conditional Firm Service Agreements 324 and 342 to be effective 7/1/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5186.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1745–000.

*Applicants:* New England Power Company.

*Description:* Section 205(d) Rate Filing: Filing—Transmission System Upgrade Reimbursement Agreement with Deerfield Wind to be effective 4/28/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5187.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1746–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Section 205(d) Rate Filing: 2016–05–19_CTA Continuous Improvement Filing to be effective 7/18/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5188.

*Comments Due:* 5 p.m. ET 6/9/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 19, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–12430 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL00–95–291; EL00–98–263]**

### San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Notice of Compliance Filing

Take notice that on May 5, 2016, the California Power Exchange Corporation submitted its Refund Rerun Compliance Filing pursuant to the Federal Energy Regulatory Commission's (Commission) July 15, 2011 Order Accepting Compliance Filings and Providing Guidance.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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[1] *San Diego Gas & Elec. Co.* v. *Sellers of Energy and Ancillary Servs.*, 136 FERC ¶ 61,036 (2011).

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on May 26, 2016.

Dated: May 20, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12408 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD16–17–000]**

### Reactive Supply Compensation in Markets Operated by Regional Transmission Organizations and Independent System Operators; Supplemental Notice of Workshop

As announced in the Notice of Workshop issued on March 17, 2016, in the above-captioned proceeding,[1] Federal Energy Regulatory Commission (Commission) staff will convene a workshop on June 30, 2016, from 12:00 p.m. (EDT) to 4:00 p.m. (EDT) in the Commission Meeting Room at 888 First Street NE., Washington, DC 20426. The workshop will be open to the public, and all interested parties are invited to attend and participate. The workshop will be led by Commission staff, and may be attended by one or more Commissioners.

The purpose of the workshop is to discuss compensation for Reactive Supply and Voltage Control (Reactive Supply) within the Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs). Specifically, the workshop will explore the types of costs incurred by generators for providing Reactive Supply capability and service; whether those costs are being recovered solely as compensation for Reactive Supply or whether recovery is also through compensation for other services; and different methods by which generators receive compensation for Reactive Supply (*e.g.,* Commission-approved revenue requirements, market-wide rates, etc.). The workshop will also explore potential adjustments in compensation methods based on changes in Reactive Supply capability and potential mechanisms to prevent overcompensation for Reactive Supply.

Attached to this supplemental notice is an agenda for the workshop, including Reactive Supply compensation topics to be considered for discussion at the workshop. Questions that speakers should be prepared to discuss are grouped by topic.

Discussions at the workshop may involve issues raised in proceedings that are pending before the Commission. These proceedings include, but are not limited to:

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|---|---|
| ISO New England Inc | Docket No. ER16–946–001. |
| Garrison Energy Center, LLC | Docket No. ER15–2735–000. |
| Newark Energy Center, LLC | Docket Nos. ER15–1706–001, EL15–97–000. |
| Scrubgrass Generating Company, L.P | Docket No. ER15–2254–000. |
| CPV Shore, LLC | Docket Nos. ER15–2589–000, EL16–4–000. |
| C.P. Crane LLC | Docket Nos. ER16–259–000, ER16–332–000, EL16–21–000. |
| GenOn Energy Management, LLC | Docket Nos. ER15–2571–000, ER15–2572–000, ER15–2573–000. |
| NRG Wholesale Generation LP | Docket Nos. ER16–413–000, ER04–1164–001, EL16–28–000. |
| Talen Energy Marketing, LLC | Docket Nos. ER16–277–000, ER16–277–001, ER16–277–002, ER16–277–003, EL16–44–000, EL16–44–001, ER08–1462–001, EL16–32–000, ER16–1456–000. |
| Constellation Power Source Generation, LLC | Docket Nos. ER16–746–000, ER16–746–001. |
| New Covert Generating Company, LLC | Docket No. ER16–1226–000. |
| Panda Liberty LLC | Docket No. ER16–1256–001. |
| Roundtop Energy LLC | Docket No. ER16–1004–000. |
| Beaver Dam Energy LLC | Docket Nos. ER16–1032–000, EL16–51–000. |
| FirstEnergy Solutions Corp | Docket Nos. ER15–1510–000, ER15–1510–001. |
| Duke Energy Indiana, Inc | Docket Nos. ER16–200–000, ER16–201–000, ER16–200–002. |
| Wabash Valley Power Association, Inc | Docket Nos. ER16–435–001, ER16–444–001. |
| Consumers Energy Company | Docket No. ER16–1058–000. |
| MidAmerican Energy Company | Docket No. ER16–1062–000. |
| Indiana Municipal Power Agency | Docket No. EL16–14–000. |
| BIF III Holtwood LLC | Docket No. ER16–1530–000. |
| Seward Generation, LLC | Docket No. ER16–1344–000. |
| Northampton Generating Company, L.P | Docket No. ER13–1431–001. |

This workshop will be transcribed and webcast. Transcripts of the workshop will be available for a fee from Ace-Federal Reporters, Inc. at (202) 347–3700. A free webcast of this event will be available through *www.ferc.gov.* Anyone with internet access who wants to view this event can do so by navigating to the Calendar of Events at *www.ferc.gov* and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol

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[1] Reactive Supply Compensation in Markets Operated by Regional Transmission Organizations and Independent System Operators, Docket No. AD16–17–000 (Mar. 17, 2016) (Notice of Workshop).

Connection provides technical support for webcasts and offers the option of listening to the workshop via phone-bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or call (703) 993–3100. Those interested in attending the workshop or viewing the webcast are encouraged to register at *https://www.ferc.gov/whats-new/registration/06-30-16-form.asp.*

Commission workshops are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov,* call (866) 208–3372 (toll free) or (202) 208–8659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

Those who wish to file written comments may do so by July 28, 2016. The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number AD16–17–000.

All comments will be placed in the Commission's public files and will be available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *www.ferc.gov* using the eLibrary link. Enter AD16–17–000 in the docket number field to access documents. For assistance, please contact FERC Online Support.

For more information about this workshop, please contact:

Sam Wellborn (Technical Information), Office of Energy Market Regulation—East, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6288, *samuel.wellborn@ferc.gov.*

Gretchen Kershaw (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8213, *gretchen.kershaw@ferc.gov.*

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *sarah.mckinley@ferc.gov.*

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12421 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP16–459–000]**

## Texas Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on May 12, 2016, Texas Gas Transmission, LLC (Texas Gas), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket No. CP16–459–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA). Texas Gas seeks authorization to abandon one injection/withdrawal well and related facilities in its Graham Lake natural gas storage facility (Graham Lake), located in Muhlenberg County, Kentucky. Texas Gas states that plugging and abandoning the well will have no effect on the certificated physical parameters of Graham Lake, including total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity. Texas Gas proposes to perform these activities under its blanket certificate issued in Docket No. CP82–407–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to J. Kyle Stephens, Vice President, Regulatory Affairs, Texas Gas Transmission, LLC, 9 Greenway Plaza, Suite 2800, Houston, Texas, 77046, or by calling (713) 479–8033 (telephone) or (713) 479–1818 (fax) *kyle.stephens@bwpmlp.com.*

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the "e-Filing" link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal

Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12416 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP16–456–000]**

### Southern Star Central Gas Pipeline, Inc.; Notice of Application

Take notice that on May 6, 2016, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Highway 56, Owensboro, Kentucky 42301, filed in Docket No. CP15–456–000, an application pursuant to section 7(b) of the Natural Gas Act and Part 157 of the Commission's regulations, requesting approval to abandon the Shidler Line in Osage County, Oklahoma. The abandonment will not adversely affect any current customers served off the Shidler Line. Specifically, the project consists of abandoning in place approximately 31 miles of 16-inch pipeline and associated facilities to avert additional cost necessary for further evaluations, reconditioning and maintenance of the pipe, in order to meet DOT/PHMSA compliance, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to David N. Roberts, Analyst Staff, Regulatory Compliance, Southern Star Central Gas Pipeline, Inc., 4700 State Highway 56, Owensboro, Kentucky 42301, phone: (270) 852–4654, or, email: *david.n.roberts@sscgp.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on June 9, 2016.

Dated: May 19, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12415 Filed 5–25–16; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC16–121–000.

*Applicants:* RA Generation, LLC, Aurora Generation, LLC, NRG Rockford LLC, NRG Rockford II LLC, NRG Wholesale Generation LP.

*Description:* Joint Application of RA Generation, LLC, et al. for Approval Under Section 203 of the Federal Power Act and Request for Expedited Action.

*Filed Date:* 5/18/16.

*Accession Number:* 20160518–5145.

*Comments Due:* 5 p.m. ET 6/8/16.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG16–103–000.

*Applicants:* Tropico, LLC.

*Description:* Self-Certification of EWG Status of Tropico, LLC.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5100.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* EG16–104–000.

*Applicants:* Nicolis, LLC.

*Description:* Self-Certification of EWG Status Nicolis, LLC.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5105.

*Comments Due:* 5 p.m. ET 6/9/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2137–015; ER14–2798–007; ER14–2799–007; ER16–750–003; ER12–164–014; ER15–1873–005; ER10–2130–015; ER10–2131–015; ER10–2138–015; ER10–2139–015; ER10–2140–015; ER10–2141–015; ER14–2187–009; ER11–4044–016; ER11–4046–015; ER10–2129–011; ER10–2134–011; ER10–2136–012; ER15–103–005; ER10–2127–014; ER10–2125–015; ER15–1041–005; ER15–2205–005; ER10–2133–015; ER10–2135–011; ER10–2124–014; ER11–3872–016; ER10–2132–014; ER10–2128–014; ER10–2764–014.

*Applicants:* Beech Ridge Energy LLC, Beech Ridge Energy II LLC, Beech Ridge Energy Storage LLC, Bethel Wind Farm LLC, Bishop Hill Energy III LLC, Buckeye Wind Energy LLC, Forward Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Grand Ridge Energy Storage LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, Grays Harbor Energy LLC, Hardee Power Partners Limited, Invenergy Cannon Falls LLC, Invenergy Nelson LLC, Invenergy TN LLC, Judith Gap Energy LLC, Prairie Breeze Wind Energy II LLC, Prairie Breeze Wind Energy III LLC, Sheldon Energy LLC, Spindle Hill Energy LLC, Spring Canyon Energy LLC, Stony Creek Energy LLC, Willow Creek Energy LLC, Wolverine Creek Energy LLC, Vantage Wind Energy LLC.

*Description:* Notification of Change in Facts of Beech Ridge Energy LLC, et al.

*Filed Date:* 5/18/16.

*Accession Number:* 20160518–5165.

*Comments Due:* 5 p.m. ET 6/8/16.

*Docket Numbers:* ER13–1967–001.

*Applicants:* NRG Wholesale Generation LP.

*Description:* Compliance filing: Informational Filing Regarding Planned Transfer to be effective N/A.

*Filed Date:* 5/18/16.

*Accession Number:* 20160518–5138.

*Comments Due:* 5 p.m. ET 6/8/16.

*Docket Numbers:* ER16–1732–000.

*Applicants:* Aurora Generation, LLC.

*Description:* Aurora Generation, LLC submits Market Power Screens for tariff filing.

*Filed Date:* 5/18/16.

*Accession Number:* 20160518–5144.

*Comments Due:* 5 p.m. ET 6/8/16.

*Docket Numbers:* ER16–1735–000.

*Applicants:* California Independent System Operator Corporation.

*Description:* Section 205(d) Rate Filing: 2016–05–18 Tariff Amendment to Implement Energy Storage Enhancements to be effective 10/1/2016.

*Filed Date:* 5/18/16.

*Accession Number:* 20160518–5139.

*Comments Due:* 5 p.m. ET 6/8/16.

*Docket Numbers:* ER16–1736–000.

*Applicants:* NRG Wholesale Generation LP, Aurora Generation, LLC.

*Description:* Joint Request of NRG Wholesale Generation LP, et al. for Waiver and Request for Expedited Consideration.

*Filed Date:* 5/18/16.

*Accession Number:* 20160518–5163.

*Comments Due:* 5 p.m. ET 6/8/16.

*Docket Numbers:* ER16–1737–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Section 205(d) Rate Filing: Revisions to the OATT, OA and RAA re: Tariff Harmonization—Definitions to be effective 7/18/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5067.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1738–000.

*Applicants:* Beacon Solar 4, LLC.

*Description:* Baseline eTariff Filing: Beacon Solar 4, LLC MBR Tariff to be effective 7/18/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5097.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1739–000.

*Applicants:* Public Service Company of Colorado.

*Description:* Compliance filing: 20160519_JDA Compliance Filing to be effective 1/1/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5136.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1740–000.

*Applicants:* Public Service Company of Colorado.

*Description:* Compliance filing: 20160519_JDA Compliance Filing in ER16–180 and Er16–178 to be effective 4/16/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5137.

*Comments Due:* 5 p.m. ET 6/9/16.

*Docket Numbers:* ER16–1741–000.

*Applicants:* Arizona Public Service Company.

*Description:* Section 205(d) Rate Filing: Rate Schedule No. 32 to be effective 7/19/2016.

*Filed Date:* 5/19/16.

*Accession Number:* 20160519–5144.

*Comments Due:* 5 p.m. ET 6/9/16.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

*Docket Numbers:* QM16–4–000.

*Applicants:* Hoosier Energy Rural Electric Coop. Inc.

*Description:* Second Letter Amendment to May 11, 2016 Application of Hoosier Energy Rural Electric Cooperative, Inc. to Terminate QF Mandatory Purchase Obligation.

*Filed Date:* 5/18/16.

*Accession Number:* 20160518–5154.

*Comments Due:* 5 p.m. ET 6/15/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 19, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–12429 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. AD10–12–007]**

## Increasing Market and Planning Efficiency Through Improved Software; Supplemental Agenda Notice

As announced in the Notice of Technical Conference issued on February 29, 2016, in the above captioned proceeding, Federal Energy Regulatory Commission (Commission) staff will convene a technical conference on June 27, 28, and 29, 2016 to discuss opportunities for increasing real-time and day-ahead market efficiency through improved software.

This conference will bring together diverse experts from public utilities, the software industry, government, research centers and academia and is intended to build on the discussions initiated in the previous Commission staff technical conferences on increasing market and planning efficiency through improved software.

The agenda for this conference is attached. If any changes occur, the revised agenda will be posted on the calendar page for this event on the Commission's Web site[1] prior to the event.

Dated: May 20, 2016.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2016–12407 Filed 5–25–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–ORD–2016–0010; FRL–9946–92–ORD]**

## Proposed Information Collection Request; Comment Request; Recordkeeping for Institutional Dual Use Research of Concern (iDURC) Policy Compliance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), "Recordkeeping for Institutional Dual Use Research of Concern (iDURC) Policy Compliance" (EPA ICR No. 2530.02, OMB Control No. 2080–0082) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through September 30, 2016. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before July 25, 2016.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2016–0010, online using *www.regulations.gov* (our preferred method), by email to *ord.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Brendan Doyle, Office of Research and Development, Mail Code: 8801R, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–4584; email address: *doyle.brendan@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* To comply with the U.S. Government *Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern (DURC Policy)* (*www.phe.gov/s3/dualuse/Pages/default.aspx*), EPA must ensure that the institutions that are subject to the *DURC Policy* appropriately train their laboratory personnel and maintain records of their training. This training is specific to "dual use research of concern," and should include information on how to properly identify DURC and appropriate methods for ensuring research that is determined to be DURC is conducted and communicated responsibly.

*Form Numbers:* None.

*Respondents/affected entities:* Private sector and the federal-owned/contractor-operated labs.

*Respondent's obligation to respond:* Mandatory (per EPA Order 1000.19: Policy and Procedures for Managing Dual Use Research of Concern).

*Estimated number of respondents:* Eighteen (total).

*Frequency of response:* Only once and/or as necessary.

*Total estimated burden:* 72 hours (per year) over three years. Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* $4320 (per year over three years), includes $0 annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is no increase nor decrease of hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The burden is expected to stay the same due to the same number of estimated respondents and research projects.

Dated: May 17, 2016.

**Gregory D. Sayles,**

*Acting Director, National Homeland Security Research Center.*

[FR Doc. 2016–12488 Filed 5–25–16; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2014–0054; FRL–9947–00–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Pulp and Paper Production (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

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[1] *http://www.ferc.gov/industries/electric/indus-act/market-planning/2016-conference.asp.*

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), "NESHAP for Pulp and Paper Production (40 CFR part 63, subpart S) (Renewal)" (EPA ICR No. 1657.09, OMB Control No. 2060–0387) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before June 27, 2016.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0054, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* Respondents are owners or operators of facilities that produce pulp, paper, or paperboard by employing kraft, soda, sulfite, semi-chemical, or mechanical pulping processes using wood; or any process using secondary or non-wood fiber and that emits 10 tons per year or more of any hazardous air pollutant (HAP) or 25 tons per year or more of any combination of HAPs. Affected sources are all the hazardous air pollutant emission points or the HAP emission points in the pulping and bleaching system for mechanical pulping processes using wood and any process using secondary or non-wood fiber.

*Form Numbers:* None.

*Respondents/affected entities:* Owners and operators of pulp and paper mills that are major sources of HAP emissions.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart S).

*Estimated number of respondents:* 114 (total).

*Frequency of response:* Initially, occasionally, and semiannually.

*Total estimated burden:* 44,438 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $5,191,626 (per year), includes $841,000 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is an adjustment decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The currently approved burden estimates contain requirements from the previous regulation as well as duplicate burden activities. In preparing this ICR renewal, EPA has removed duplicate items and updated the ICR so that it only reflects current requirements. This results in an apparent decrease in burden.

**Courtney Kerwin,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2016–12367 Filed 5–25–16; 8:45 am]

BILLING CODE 6560–50–P

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## FEDERAL COMMUNICATIONS COMMISSION

## FCC To Hold Open Commission Meeting, Wednesday, May 25, 2016

May 18, 2016.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, May 25, 2016 which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

| Item No. | Bureau | Subject |
|---|---|---|
| 1 | Media | Title: Revisions to Public Inspection File Requirements— Broadcaster Correspondence File and Cable Principal Headend Location (MB Docket No. 16–161).<br>Summary: The Commission will consider a Notice of Proposed Rulemaking that seeks comment on proposals to eliminate the requirement that commercial broadcast stations retain copies of letters and emails from the public in their public inspection file and the requirement that cable operators reveal the location of the cable system's principal headend. |
| 2 | Public Safety & Homeland Security Bureau. | Title: Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications (PS Docket No. 15–80); New Part 4 of the Commission's Rules Concerning Disruptions to Communications (ET Docket No. 04–35); The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers (PS Docket No. 11–82).<br>Summary: The Commission will consider a Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration to update its Part 4 communications network outage reporting requirements. |

| Item No. | Bureau | Subject |
|---|---|---|
| 3 | Wireline Competition | Title: Connect America Fund (WC Docket No. 10–90); ETC Annual Reports and Certifications (WC Docket No. 14–58); and Rural Broadband Experiments (WC Docket No. 14–259).<br>Summary: The Commission will consider a Report & Order and Further Notice of Proposed Rulemaking regarding a competitive bidding process for high-cost universal service support from Phase II of the Connect America Fund. |

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**Consent Agenda**

The Commission will consider the following subjects listed below as a consent agenda and these items will not be presented individually:

| | | |
|---|---|---|
| 1 | Media | Title: PMCM TV, LLC Licensee of Station WJLP(TV), Middletown Township, New Jersey.<br>Summary: The Commission will consider an Order concerning a Consent Decree entered into between the Commission and PMCM TV, LLC regarding compliance with children's programming requirements. |
| 2 | Enforcement | Title: Enforcement Bureau Action.<br>Summary: The Commission will consider whether to take an enforcement action. |
| 3 | Enforcement | Title: Enforcement Bureau Action.<br>Summary: The Commission will consider whether to take an enforcement action. |
| 4 | Enforcement | Title: Enforcement Bureau Action.<br>Summary: The Commission will consider whether to take an enforcement action. |
| 5 | Enforcement | Title: Enforcement Bureau Action.<br>Summary: The Commission will consider whether to take an enforcement action. |
| 6 | Enforcement | Title: Enforcement Bureau Action.<br>Summary: The Commission will consider whether to take an enforcement action. |

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2016–12399 Filed 5–25–16; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0398]**

## Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before July 25, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0398.

*Title:* Sections 2.948, 2.949 and 15.117(g)(2)—Equipment Authorization Measurement Standards.

*Form Number:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 630 respondents; 371 responses.

*Estimated Time per Response:* 2 hours–30 hours.

*Frequency of Response:* On occasion, one-time and every two year reporting requirements, recordkeeping requirement and third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 302, 303(c), 303(f), 303(g) and 303(r), and 309(a).

*Total Annual Burden:* 3,612 hours.

*Total Annual Cost:* No Cost.

*Privacy Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* There is a minimal exemption from the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4) and 47 CFR 0.459(d) of the Commission's rules that is granted for trade secrets, which may be submitted to the Commission as part of the documentation of the test results. No other assurances of confidentiality are provided to respondents.

*Needs and Uses:* The Commission will submit this information collection after this 60 day comment period to obtain the full three-year clearance from the Office of Management and Budget (OMB).

## Description of Measurement Facilities

The Commission established uniform technical standards for various radio-frequency equipment operating under the guidelines established in the FCC rules, which include smartphones, personal computers, garage door openers, baby monitors, etc. In order to ensure that technical standards are applied uniformly, the Commission requires testing facilities and manufacturers to follow the standardized measurement procedures and practices:

(a) 47 CFR part 2 of the Commission's rules requires each Electro-Magnetic Compatibility (EMC) testing facility that performs equipment testing in support of any request for equipment authorization to be accredited by Commission-approved accrediting bodies.

(b) A testing laboratory that is accredited by a Commission-approved accrediting body is required to file a test site description with the accreditation body for review as part of the accreditation assessment. This information will document that the EMC testing facility complies with the testing standards used to make the measurements that support any request for equipment authorization.

(c) The EMC testing facility must provide updated documentation to the accreditation bodies if there are changes in the measurement facility or certify at least every two years that the facility's equipment and test set-up have not changed.

(d) The accreditation body will provide the Commission with specific summary information about each testing laboratory that it has accredited. The Commission will maintain a list of accredited laboratories that it has recognized.

The Commission or a Telecommunications certification body uses the information from the test sites and the supporting documentation, which accompany all requests for equipment authorization:

(a) To ensure that the data are valid and that proper testing procedures are used;

(b) To ensure that potential interference to radio communications is controlled; and

(c) To investigate complaints of harmful interference or to verify the manufacturer's compliance with Section 47 CFR 2.948 of the Commission's rules.

## Accreditation Bodies

47 CFR Section 2.949 of the Commission's rules sets forth the requirements for accreditation bodies seeking recognition from the FCC as a laboratory accreditation body. Accreditation bodies seeking such recognition from the Commission must file a report of their qualifications with the Office of Engineering and Technology (OET). They are only required to file this information once.

## Other Information

In addition, the referenced 47 CFR part 15 rules (47 CFR 15.117(g)(2)) require that certain equipment manufacturers file information concerning the testing of TV receivers, which tune to UHF channels, to show that the UHF channels provide approximately the same degree of tuning accuracy with approximately the same expenditure of time and effort.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of Secretary.*

[FR Doc. 2016–12461 Filed 5–25–16; 8:45 am]

BILLING CODE 6712–01–P

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# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

## Sunshine Act Meeting

**TIME AND DATE:** 1 p.m., Thursday, May 26, 2016.

**PLACE:** The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following in closed session as a continuation of the meeting held on May 4, 2016: *Secretary of Labor* v. *Newtown Energy, Inc.*, Docket No. WEVA 2011–283 (Issues include whether the Administrative Law Judge erred by concluding that the violation in question was not significant and substantial and was not the result of an unwarrantable failure to comply.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

**CONTACT PERSON FOR MORE INFO:** Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: May 20, 2016.

**Emogene Johnson,**

*Administrative Assistant.*

[FR Doc. 2016–12507 Filed 5–24–16; 11:15 am]

BILLING CODE 6735–01–P

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# FEDERAL RESERVE SYSTEM

## Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503.

*Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:*

*Report title:* Notice By Financial Institutions of Government Securities Broker or Government Securities Dealer Activities; Notice By Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer.

*Agency form number:* Form G–FIN; Form G–FINW.

*OMB control number:* 7100–0224.

*Frequency:* On occasion.

*Reporters:* State member banks, foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge corporations.

*Estimated annual reporting hours:* 5 hours.

*Estimated average hours per response:* Form G–FIN, 1 hour; Form G–FINW, 0.25 hour.

*Number of respondents:* Form G–FIN, 4; Form G–FINW, 2.

*General description of report:* The Securities and Exchange Act of 1934 authorizes the Board to require these notices. The notices are authorized under 15 U.S.C. 78o–5(a)(l)(B)(i), which requires a financial institution that is a broker or dealer of government securities dealer to notify the appropriate regulatory agency (ARA) that it is a government securities broker or a government securities dealer (Form G–FIN notice), or that it has ceased to act as such (Form G–FINW notice). In addition, 15 U.S.C. 78o–5(b)(1) directs the Treasury to adopt rules requiring every government securities broker and government securities dealer to collect information and to provide reports to the applicable ARA. The Board is an ARA. 15 U.S.C. 78c(a)(34)(G)(ii). Further support for the creation and collection of these notices by the Board is found in Treasury regulations, authorized by 15 U.S.C. 78o–5(b)(l), instructing that any amendments or corrections to a financial institution's status as a government securities broker or dealer also be filed with the ARA on the Form GFIN notice. 17 CFR 400.5(b).

Under the Act, the Secretary of the Treasury is authorized to exempt any government securities broker or dealer, or class thereof, from the notice requirement of section 78o–5(a)(1)(B). *See* 15 U.S.C. 78o–5(a)(5). Thus, the obligation to file the notices with the Board is mandatory for those financial institutions for which the Board serves as the ARA, unless the financial institution is exempted from the notice filing requirement by Treasury regulations (17 CFR part 401). If an exemption no longer applies, the institution must immediately file a notice. The filing of these notices is event generated.

Respondents file two copies of the notices directly with the Board. Under the statute, the Board forwards one copy to the Securities and Exchange Commission (SEC), and the notices are then made public by the SEC. 15 U.S.C. 78o–5(a)(l)(B)(iii). While the statute only requires the SEC to produce the notices to the public, the notices are also available to the public upon request made to the Board. Accordingly, the Board does not consider these data to be confidential.

*Abstract:* The Government Securities Act of 1986 (the Act) requires financial institutions to notify their ARA of their intent to engage in government securities broker or dealer activity, to amend information submitted previously, and to record their termination of such activity. The Federal Reserve is the ARA for state member banks, foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge corporations. The Federal Reserve uses the information in its supervisory capacity to measure compliance with the Act.

*Current Actions:* On February 29, 2016, the Board published a notice in the **Federal Register** (81 FR 10248) requesting public comment for 60 days on the proposal to extend the FR G–FIN and FR G–FINW for three years without revision. The comment period for the notice expired on April 29, 2016. The Federal Reserve did not receive any comments, and the information collection will be extended as proposed.

Board of Governors of the Federal Reserve System, May 23, 2016.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2016–12471 Filed 5–25–16; 8:45 am]

BILLING CODE 6210–01–P

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## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503.

*Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:*

1. *Report title:* Written Security Program for State Member Banks.

*Agency form number:* FR 4004.

*OMB control number:* 7100–0112.

*Frequency:* On occasion.

*Reporters:* State member banks.

*Number of respondents:* 45.

*Estimated average hours per response:* 0.5 hours.

*Estimated annual reporting hours:* 23 hours.

*Abstract:* The board of directors of each state member bank must designate a security officer to assume the responsibility for the development and administration of a written security program within 180 days of opening for business. Each state member bank must develop and implement a written security program for the bank's main office and branches and maintain it in the bank's records. The designated security officer must report at least annually to the bank's board of directors on the implementation, administration, and effectiveness of the written security program. There is no formal reporting form and the information is not submitted to the Federal Reserve.

*Legal authorization and confidentiality:* This recordkeeping requirement is mandatory pursuant to section 3 of the Bank Protection Act (12 U.S.C. 1882(a)) and Regulation H (12 CFR 208.61). Because written security programs are maintained at state member banks, no issue of confidentiality under the Freedom of Information Act (FOIA) normally arises. However, copies of such documents included in examination work papers would, in such form, be confidential pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). In addition, the records may also be exempt from disclosure under exemption 4 of FOIA (5 U.S.C. 552(b)(4)).

*Current Actions:* On February 23, 2016, the Board published a notice in the **Federal Register** (81 FR 8958) requesting public comment for 60 days on the proposal to extend the FR 4004 for three years without revision. The comment period for the notice expired on April 25, 2016. The Federal Reserve did not receive any comments, and the information collection will be extended as proposed.

*2. Report title:* Risk-Based Capital Guidelines: Market Risk.

*Agency form number:* FR 4201.

*OMB control number:* 7100–0314.

*Frequency:* Varied—some requirements are done at least quarterly and some at least annually.

*Reporters:* State member banks, bank holding companies, and certain savings and loan holding companies.

*Number of respondents:* 28.

*Estimated burden per respondent:* 1,964 hours.

*Total estimated annual burden:* 54,992 hours.

*Abstract:* The market risk rule is an important component of the Board's regulatory capital framework (12 CFR 217) that requires banking organizations to measure and hold capital to cover their exposure to market risk. On July 2, 2013, the Federal Reserve adopted a revised regulatory capital framework, including the market risk rule, which was expanded to include certain savings and loan holding companies. The information-collection requirements in the market risk rule provide the most current statistical data available to identify areas of market risk on which to focus for onsite and offsite examinations and allow the Federal Reserve to assess and monitor the levels and components of each reporting institution's risk-based capital requirements for market risk and the adequacy of the institution's capital under the market risk rule. The reporting, recordkeeping, and disclosure requirements are found in sections 12 CFR 217.203–217.210, and 217.212. These requirements enhance risk sensitivity and introduce requirements for public disclosure of certain qualitative and quantitative information about a financial institution's market risk. There are no required reporting forms associated with this information collection.

*Legal authorization and confidentiality:* The FR 4201 is authorized under 12 U.S.C. 324, 1844(c), and 1467a(b)(2)(A). Information collected pursuant to the reporting requirements of the FR 4201 (specifically, information related to seeking regulatory approval for the use of certain incremental and comprehensive risk models and methodologies under sections 217.208 and 217.209) is exempt from disclosure pursuant to exemption (b)(8) of FOIA (5 U.S.C 552(b)(8)), and exemption (b)(4) of FOIA (5 U.S.C. 552(b)(4)). Exemption (b)(8) applies because the reported information is contained in or related to examination reports. Exemption (b)(4) applies because the information provided to obtain regulatory approval of the incremental or comprehensive risk models is confidential business information the release of which could cause substantial competitive harm to the reporting company. The recordkeeping requirements of the FR 4201 require banking organizations to maintain documentation regarding certain policies and procedures, trading and hedging strategies, and internal models. These documents would remain on the premises of the banking organizations and accordingly would not generally be subject to a FOIA request. To the extent these documents are provided to the regulators, they would be exempt under exemption (b)(8), and may be exempt under exemption (b)(4). Exemption (b)(4) protects from disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential." The disclosure requirements of the FR 4201 do not raise any confidentiality issues because they require banking organizations to make certain information public.

*Current Actions:* On February 23, 2016, the Board published a notice in the **Federal Register** (81 FR 8958) requesting public comment for 60 days on the proposal to extend the FR 4201 for three years without revision. The comment period for the notice expired on April 25, 2016. The Federal Reserve did not receive any comments, and the information collection will be extended as proposed.

Board of Governors of the Federal Reserve System, May 23, 2016.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2016–12470 Filed 5–25–16; 8:45 am]

**BILLING CODE 6210–01–P**

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## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0302; Docket 2016–0001; Sequence 2]**

## General Services Administration Acquisition Regulation; Submission for OMB Review; Modifications 552.238–81

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an information collection requirement regarding the Modifications clause.

**DATES:** *Submit comments on or before:* June 27, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dana Munson, Procurement Analyst, General Services Acquisition Policy Division, GSA, 202–357–9652 or email *dana.munson@gsa.gov.*

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "Information Collection 3090–0302, Modifications," under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 3090–0302, Modifications." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090–0302, Modifications," on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0302, Modifications.

*Instructions:* Please submit comments only and cite Information Collection 3090–0302, Modifications, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

The General Services Administration Acquisition Regulation (GSAR) clause 552.238–81 Modifications requires vendors to request a contract modification by submitting a request to the Contracting Officer for approval, except for electronic File updates. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s). A notice was published in the **Federal Register** at 81 FR 12731 on March 10, 2016. No comments were received.

### B. Annual Reporting Burden

*Respondents:* 19,500.
*Responses per Respondent:* 2.
*Total Responses:* 39,000.
*Hours per Response:* 5.
*Total Burden Hours:* 195,000.

### C. Public Comments

*Public comments are particularly invited on:* Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

*Obtaining Copies of Proposals*

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405; telephone 202–501–4755. Please cite OMB Control No. 3090–0302,"Modifications" in all correspondence.

**Jeffrey A. Koses,**
*Director, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2016–12370 Filed 5–25–16; 8:45 am]

**BILLING CODE 6820–61–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–855(A, B, I)]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by June 27, 2016.

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Enrollment Application; *Use:* The primary function of the CMS–855 Medicare enrollment application is to gather information from a provider or supplier that tells us who it is, whether it meets certain qualifications to be a health care provider or supplier, where it practices or renders its services, the identity of the owners of the enrolling entity, and other information necessary to establish correct claims payments. No comments were received during the 60-day comment period (April 1, 2016 (81 FR 18855)). *Form Number:* CMS–855(A,

B, I) (OMB control number: 0938–0685); *Frequency:* Annually; *Affected Public:* Private Sector; Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 1,735,800; *Total Annual Responses:* 86,480; *Total Annual Hours:* 290,193. (For policy questions regarding this collection contact Kimberly McPhillips at 410–786–5374.)

Dated: May 20, 2016.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2016–12376 Filed 5–25–16; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10053 and CMS–10302]

## Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by July 25, 2016.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ________, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:**

### Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS–10053 Paid Feeding Assistants in Long-Term Care Facilities and Supporting Regulations**

**CMS–10302 Collection Requirements for Compendia for Determination of Medically-accepted Indications for Off-label Uses of Drugs and Biologicals in an Anti-cancer Chemotherapeutic Regimen**

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Paid Feeding Assistants in Long-Term Care Facilities and Supporting Regulations; *Use:* In accordance with 42 CFR part 483, long-term care facilities are permitted to use paid feeding assistants to supplement the services of certified nurse aides. If facilities choose this option, feeding assistants must complete a training program. Nursing home providers are expected to maintain a record of all individuals used by the facility as paid feeding assistants. *Form Number:* CMS–10053 (OMB control number: 0938–0916); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 4,250; *Total Annual Responses:* 4,250; *Total Annual Hours:* 25,500. (For policy questions regarding this collection contact Karen Tritz at 410–786–8021.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Collection Requirements for Compendia for Determination of Medically-accepted Indications for Off-label Uses of Drugs and Biologicals in an Anti-cancer Chemotherapeutic Regimen *Use:* Section 182(b) of the Medicare Improvement of Patients and Providers Act (MIPPA) amended section 1861(t)(2)(B) of the Social Security Act (42 U.S.C. 1395x(t)(2)(B)) by adding at the end the following new sentence: 'On and after January 1, 2010, no compendia may be included on the list of compendia under this subparagraph unless the compendia has a publicly transparent process for evaluating therapies and for identifying potential conflicts of interest.' We believe that the implementation of this statutory provision that compendia have a "publicly transparent process for evaluating therapies and for identifying potential conflicts of interests" is best accomplished by amending 42 CFR 414.930 to include the MIPPA requirements and by defining the key components of publicly transparent processes for evaluating therapies and

for identifying potential conflicts of interests.

All currently listed compendia will be required to comply with these provisions, as of January 1, 2010, to remain on the list of recognized compendia. In addition, any compendium that is the subject of a future request for inclusion on the list of recognized compendia will be required to comply with these provisions. No compendium can be on the list if it does not fully meet the standard described in section 1861(t)(2)(B) of the Act, as revised by section 182(b) of the MIPPA. *Form Number:* CMS–10302 (OMB control number: 0938–1078); *Frequency:* Annually; *Affected Public:* Business and other for-profits and Not-for-profit institutions; *Number of Respondents:* 845; *Total Annual Responses:* 900; *Total Annual Hours:* 5,135. (For policy questions regarding this collection contact Brijet Coachman at 410–786–7364.)

Dated: May 23, 2016.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2016–12476 Filed 5–25–16; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[CFDA Number: 93.576]**

## Announcement of Award of an Urgent Single-Source Grant to Gulf Coast Jewish Family and Community Services in Clearwater, FL

**AGENCY:** Office of Refugee Resettlement, ACF, HHS.

**ACTION:** Notice of the award of an urgent single-source grant to Gulf Coast Jewish Family and Community Services to provide mental health technical assistance services for refugees.

**SUMMARY:** The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) announces the award of an urgent single-source grant in the amount of $225,000 to Gulf Coast Jewish Family and Community Services (Gulf Coast) in Clearwater, FL to train providers to effectively identify and appropriately serve the mental health needs of arriving refugee populations.

**DATES:** The two-year project period for the award is December 1, 2015 through November 30, 2017.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Tota, Deputy Director, Office of Refugee Resettlement, 330 C. Street, SW., Washington, DC 20201. Telephone: 202–401–4858. Email: *kenneth.tota@acf.hhs.gov*

**SUPPLEMENTARY INFORMATION:** In the past few years, ORR has seen an increasing need for mental health services among newly-arrived refugees, particularly those who have suffered torture and extreme trauma due to war and genocide. ORR has received numerous reports of refugees from Bhutan and Burma completing suicide. Bhutanese refugees, in particular, have demonstrated a high incidence of suicide upon arrival to the U.S. This fiscal year the program is seeing a significant increase in resettlement of refugees from the Democratic Republic of Congo and Syria.

Refugees face significant barriers to accessing mental health resources since they are unfamiliar with community mental health systems, speak limited English, and have few financial resources. Health and mental health providers are often overwhelmed by the linguistic and cultural differences that refugees present and respond by saying they are unable to provide services. Currently the provision of standardized mental health screening and culturally appropriate mental health services is one the primary challenges facing the US resettlement program. There is no direct provision of much needed mental health services to refugees in many primary resettlement locations.

Gulf Coast has been a longstanding refugee resettlement program and also has been a grantee under the ORR Survivors of Torture program for the past 15 years. In addition, Gulf Coast has provided technical assistance and mental health services to a national network of refugee service providers and mainstream health and mental health professionals for the past 9 years. Gulf Coast is recognized as the primary refugee mental health technical assistance provider to states without a survivor of torture program. As a result of Gulf Coast's training and technical assistance 6 states applied for and received ORR grants to provide direct services to survivors. They are the only technical assistance provider with expertise in both refugee resettlement and direct services to survivors of torture. They are the only national technical assistance provider with expertise in both refugee resettlement and direct services to survivors of torture.

Gulf Coast's National Partnership for Community Training (NPCT) has provided technical assistance and training services to ORR grantees and other refugee service providers since 2006.

It is expected that ORR will provide awards to this grantee for a 2-year project period with 12-month budget periods. The grantee will be required to submit applications for noncompetitive awards in the subsequent year during the project period. Future awards will be based on the grantee's performance, the availability of funds, and the best interest of the Federal Government.

**Statutory Authority:** This program is authorized by—

(A) Section 412 (c)(1)(A) of the Immigration and Nationality Act (INA)(8 U.S.C. 1522(c)(1)(A)), as amended, which authorizes the Director "to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—[. . .](i) to assist refugees in obtaining the skills that are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, education and other services."

(B) Refugee Assistance Extension Act of 1986, Pub.L. 99–605, Nov 6, 1986, 100 Stat. 3449.

**Christopher Beach,**

*Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.*

[FR Doc. 2016–12462 Filed 5–25–16; 8:45 am]

BILLING CODE 4184–45–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2009–D–0430]**

## Ingredients Declared as Evaporated Cane Juice; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing the availability of a guidance entitled "Ingredients Declared as Evaporated Cane Juice." The document advises industry of FDA's view that sweeteners derived from sugar

cane, including those derived from sugar cane syrup, should not be declared on food labels as "evaporated cane juice." Instead, such ingredients should be declared as "sugar," preceded by one or more truthful, non-misleading descriptors if the manufacturer so chooses.

**DATES:** Submit either electronic or written comments on FDA guidances at any time.

**ADDRESSES:** You may submit comments as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

*Instructions:* All submissions received must include the Docket No. FDA–2009–D–0430 for "Ingredients Declared as Evaporated Cane Juice." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the guidance to Food Labeling and Standards Staff/Office of Nutrition and Food Labeling, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

**FOR FURTHER INFORMATION CONTACT:** Andrea Krause, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2371.

**SUPPLEMENTARY INFORMATION:**

## I. Background

We are announcing the availability of a guidance for industry entitled "Ingredients Declared as Evaporated Cane Juice." We are issuing this guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

In the **Federal Register** of October 7, 2009 (74 FR 51610), we announced the availability of a draft guidance for industry entitled "Guidance for Industry: Ingredients Declared as Evaporated Cane Juice" and invited comment by December 7, 2009. The draft guidance, which was issued in response to the use of the term "evaporated cane juice" on food labels, stated FDA's view that "evaporated cane juice" is not the common or usual name of any sweetener and that the ingredient in question should instead be declared as "dried cane syrup." In the **Federal Register** of March 5, 2014 (79 FR 12507), we reopened the comment period until May 5, 2014, and requested further comments, data, and information about the basic nature and characterizing properties of the ingredient sometimes declared as "evaporated cane juice," how this ingredient is produced, and how it compares with other sweeteners.

We received numerous comments on the draft guidance, including many that included information about the processing and refining of ingredients made from sugar cane. We have modified the final guidance where appropriate. In addition, we made editorial changes to improve clarity. Based on comments stating that the ingredient sometimes declared as evaporated cane juice is not made from cane syrup as defined in 21 CFR 168.130, FDA is no longer recommending that this ingredient be labeled as "dried cane syrup." Instead, the guidance advises that ingredients currently being declared as "evaporated cane juice," as well as other ingredients that meet the description of "sucrose" in 21 CFR 184.1854, should be declared using the term "sugar," accompanied by a truthful, non-misleading descriptor if the manufacturer so desires. The guidance announced in this notice finalizes the draft guidance dated October 2009.

FDA encourages firms that market sugar cane-derived sweeteners or products that contain a sugar cane-derived sweetener to review the final guidance and consider whether the name under which the sweetener is declared in food labeling accurately describes its basic nature and characterizing properties, as required by the common or usual name regulation (21 CFR 102.5). As explained in the final guidance, our view is that products currently labeled as containing "evaporated cane juice" should be relabeled to use the name "sugar," optionally accompanied by a truthful, non-misleading descriptor to distinguish the ingredient from other cane-based sweeteners. FDA would not object to the use of stickers to make this change until the next regularly scheduled label printing.

## II. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/FoodGuidances* or *http://www.regulations.gov.* Use the FDA Web sites listed previously to find the most current version of the guidance.

Dated: May 20, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016–12402 Filed 5–25–16; 8:45 am]

BILLING CODE 4164–01–P

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# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Meeting of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria

**AGENCY:** Office of the Secretary, Office of the Assistant Secretary for Health, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that a meeting is scheduled to be held of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (Advisory Council). The meeting will be open to the public; a public comment session will be held during the meeting. Pre-registration is required for members of the public who wish to attend the meeting and who wish to participate in the public comment session. Individuals who wish to attend the meeting and/or send in their public comment via email should send an email to *CARB@hhs.gov.* Registration information is available on the Web site *http://www.hhs.gov/ash/carb/* and must be completed by June 18, 2016; all in-person attendees must pre-register by this date. Additional information about registering for the meeting and providing public comment can be obtained at *http://www.hhs.gov/ash/carb/* on the Meetings page.

**DATES:** The meeting is scheduled to be held on June 21, 2016, from 10:00 a.m. to 5:00 p.m. ET, and June 22, 2016, from 9:00 a.m. to 4:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the Web site for the Advisory Council at *http://www.hhs.gov/ash/carb/* when this information becomes available. Pre-registration for attending the meeting in person is required to be completed no later than June 18, 2016; public attendance at the meeting is limited to the available space.

**ADDRESSES:** U.S. Department of Health and Human Services, Hubert H. Humphrey Building, Great Hall, 200 Independence Avenue SW., Washington, DC 20201.

The meeting also can be accessed through a live webcast on the day of the meeting. For more information, visit *http://www.hhs.gov/ash/carb/.*

**FOR FURTHER INFORMATION CONTACT:** Bruce Gellin, Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, Room 715H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Phone: (202) 260–6638; email: *CARB@hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under Executive Order 13676, dated September 18, 2014, authority was given to the Secretary of HHS to establish the Advisory Council, in consultation with the Secretaries of Defense and Agriculture. Activities of the Advisory Council are governed by the provisions of Public Law 92–463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

The Advisory Council will provide advice, information, and recommendations to the Secretary of HHS regarding programs and policies intended to support and evaluate the implementation of Executive Order 13676, including the National Strategy for Combating Antibiotic-Resistant Bacteria and the National Action Plan for Combating Antibiotic-Resistant Bacteria. The Advisory Council shall function solely for advisory purposes.

In carrying out its mission, the Advisory Council will provide advice, information, and recommendations to the Secretary regarding programs and policies intended to preserve the effectiveness of antibiotics by optimizing their use; advance research to develop improved methods for combating antibiotic resistance and conducting antibiotic stewardship; strengthen surveillance of antibiotic-resistant bacterial infections; prevent the transmission of antibiotic-resistant bacterial infections; advance the development of rapid point-of-care and agricultural diagnostics; further research on new treatments for bacterial infections; develop alternatives to antibiotics for agricultural purposes; maximize the dissemination of up-to-date information on the appropriate and proper use of antibiotics to the general public and human and animal healthcare providers; and improve international coordination of efforts to combat antibiotic resistance.

On June 21, the public meeting will be dedicated to presentations from federal and non-federal stakeholders surrounding topic areas related to incentives for the development of vaccines, diagnostics, and therapeutics. On June 22, the meeting will focus on the topic of the environment and antibiotic-resistance, in addition to a presentation regarding the new guidance from the Food and Drug Administration for Industry #213, "New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions With Guidance for Industry #209." The meeting agenda will be posted on the Advisory Council Web site at *http://www.hhs.gov/ash/carb/* when it has been finalized. All agenda items are tentative and subject to change.

Public attendance at the meeting is limited to the available space. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Designated Federal Officer at the address/telephone number listed above at least one week prior to the meeting. For those unable to attend in person, a live webcast will be available. More information on registration and accessing the webcast can be found at *http://www.hhs.gov/ash/carb/.*

Members of the public will have the opportunity to provide comments prior to the Advisory Council meeting by emailing *CARB@hhs.gov.* Public comments should be sent in by midnight June 15, 2016, and should be limited to no more than one page. All public comments received prior to June 15, 2016, will be provided to Advisory Council members; comments are limited to two minutes per speaker.

Dated: May 18, 2016.

**Bruce Gellin,**

*Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Deputy Assistant Secretary for Health.*

[FR Doc. 2016–12472 Filed 5–25–16; 8:45 am]

BILLING CODE 4150–44–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Meeting of the Advisory Committee on Minority Health

**AGENCY:** Office of the Secretary, Office of Minority Health, Department of Health and Human Services.

**ACTION:** Notice of meeting.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. This meeting will be open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should email *OMH-ACMH@hhs.gov* by June 17, 2016.

Information about the meeting is available from the designated contact and will be posted on the Web site for the Office of Minority Health (OMH), *www.minorityhealth.hhs.gov.* Information about ACMH activities can be found on the OMH Web site under the heading *About OMH.*

**DATES:** The meeting will be held on Monday, June 20, 2016, from 9:00 a.m. to 5:00 p.m. and on Tuesday, June 21, 2016, from 9:00 a.m. to 1:00 p.m. ET.

**ADDRESSES:** The meeting will be held at the Doubletree by Hilton Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

**FOR FURTHER INFORMATION CONTACT:** Dr. Minh Wendt, Designated Federal Officer, ACMH; Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–8222, Fax: 240–453–8223; *OMH-ACMH@hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during this meeting will include strategies to improve the health of racial and ethnic minority populations through the development of health policies and programs that will help eliminate health disparities, as well as other related issues.

Public attendance at this meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person at least fourteen (14) business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to three minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven (7) business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH committee members should submit their materials to the Designated Federal Officer, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business on Monday, June 13, 2016.

Dated: May 5, 2016.

**Minh Wendt,**

*Designated Federal Officer, ACMH, Office of Minority Health, U.S. Department of Health and Human Services.*

[FR Doc. 2016–12473 Filed 5–25–16; 8:45 am]

BILLING CODE 4150–29–P

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[1651–0098]

### Agency Information Collection Activities: NAFTA Regulations and Certificate of Origin

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-Day Notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: NAFTA Regulations and Certificate of Origin (Forms 434, 446, and 447). CBP is proposing that this information collection be extended with a change to the burden hours. There is no change to the information collected. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before July 25, 2016 to be assured of consideration.

**ADDRESSES:** Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* NAFTA Regulations and Certificate of Origin.

*OMB Number:* 1651–0098.

*Form Number:* CBP Forms 434, 446, and 447.

*Abstract:* On December 17, 1992, the U.S., Mexico and Canada entered into an agreement, "The North American Free Trade Agreement" (NAFTA). The provisions of NAFTA were adopted by the U.S. with the enactment of the North American Free Trade Agreement Implementation Act of 1993 (Pub. L. 103–182).

CBP Form 434, *North American Free Trade Certificate of Origin,* is used to certify that a good being exported either from the United States into Canada or Mexico or from Canada or Mexico into the United States qualifies as an originating good for purposes of preferential tariff treatment under NAFTA. This form is completed by exporters and/or producers and furnished to CBP upon request. CBP Form 434 is provided for by 19 CFR 181.11 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

CBP Form 446, *NAFTA Verification of Origin Questionnaire,* is a questionnaire that CBP personnel use to gather sufficient information from exporters and/or producers to determine whether goods imported into the United States qualify as originating goods for the purposes of preferential tariff treatment under NAFTA. CBP Form 446 is provided for by 19 CFR 181.72 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

CBP Form 447, *North American Free Trade Agreement Motor Vehicle Averaging Election,* is used to gather information required by 19 CFR 181 Appendix, section 11, (2) "Information Required When Producer Chooses to Average for Motor Vehicles". This form is provided to CBP when a manufacturer chooses to average motor vehicles for the purpose of obtaining NAFTA preference. CBP Form 447 is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

*Current Actions:* This submission is being made to extend the expiration date for CBP Forms 434, 446, and 447 and to revise the burden hours as a result of updated estimates for the time per response for Forms 434 and 446. There are no changes to the forms or the information collected.

*Type of Review:* Extension with a change to the burden hours.

*Affected Public:* Businesses.

*Form 434, NAFTA Certificate of Origin:*

*Estimated Number of Respondents:* 40,000.

*Estimated Number of Responses per Respondent:* 3.

*Estimated Time per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 240,000.

*Form 446, NAFTA Questionnaire:*

*Estimated Number of Respondents:* 400.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Time per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 800.

*Form 447, NAFTA Motor Vehicle Averaging Election:*

*Estimated Number of Respondents:* 11.

*Estimated Number of Responses per Respondent:* 1.28.

*Estimated Time per Response:* 1 hour.

*Estimated Total Annual Burden Hours:* 14.

Dated: May 23, 2016.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2016–12439 Filed 5–25–16; 8:45 am]

BILLING CODE 9111–14–P

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## DEPARTMENT OF HOMELAND SECURITY

## U.S. Customs and Border Protection

**[1651–0106]**

## Agency Information Collection Activities: Application To Pay Off or Discharge an Alien Crewman

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application to Pay Off or Discharge an Alien Crewman (Form I–408). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before July 25, 2016 to be assured of consideration.

**ADDRESSES:** Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Application to Pay Off or Discharge an Alien Crewman.

*OMB Number:* 1651–0106.

*Form Number:* I–408.

*Abstract:* CBP Form I–408, Application to Pay Off or Discharge an Alien Crewman, is used as an application by the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States to obtain permission from the Secretary of the Department of Homeland Security to pay off or discharge an alien crewman. This form is submitted to the CBP officer having jurisdiction over the area in which the vessel or aircraft is located at the time of application. CBP Form I–408 is authorized by Section 256 of the Immigration and Nationality Act (8 U.S.C. 1286) and provided for 8 CFR 252.1(h). This form is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

*Current Actions:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 85,000.

*Estimated Time per Respondent:* 25 minutes.

*Estimated Total Annual Burden Hours:* 35,360.

Dated: May 23, 2016.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2016–12440 Filed 5–25–16; 8:45 am]

BILLING CODE 9111–14–P

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[1651–0103]

### Agency Information Collection Activities: Passenger List/Crew List (CBP Form I–418)

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Passenger List/Crew List (Form I–418). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before July 25, 2016 to be assured of consideration.

**ADDRESSES:** Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Passenger List/Crew List.

*OMB Number:* 1651–0103.

*Form Number:* Form I–418.

*Abstract:* CBP Form I–418 is prescribed by CBP, for use by masters, owners, or agents of vessels in complying with Sections 231 and 251 of the Immigration and Nationality Act (INA). This form is filled out upon arrival of any person by commercial vessel at any port within the United States from any place outside the United States. The master or commanding officer of the vessel is responsible for providing CBP officers at the port of arrival with lists or manifests of the persons on board such conveyances. CBP is currently working to allow for electronic submission of the information on CBP Form I–418. This form is provided for in 8 CFR 251.1 and 251.3. A copy of CBP Form I–418 can be found at *https://www.cbp.gov/newsroom/publications/forms?title=i-418&=Apply.*

*Current Actions:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 48,000.

*Estimated Time per Respondent:* 1 hour.

*Estimated Total Annual Hours:* 48,000.

Dated: May 23, 2016.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2016–12441 Filed 5–25–16; 8:45 am]

BILLING CODE 9111–14–P

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R3–ES–2016–N085; FVES59420300000F2 14X FF03E00000]

### U.S. Fish and Wildlife Service Enhancement of Survival Permit; Draft Mitchell's Satyr Safe Harbor Agreement

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Receipt of application; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from the East Lansing Field Office Project Leader for an Enhancement of Survival Permit (permit) under the Endangered Species Act of 1973, as amended (ESA). The application includes a draft Safe Harbor Agreement to facilitate reintroduction and recovery of the Federally endangered Mitchell's satyr butterfly on non-Federal land in Michigan and Indiana. We have made a preliminary determination that the Safe Harbor Agreement and permit application are eligible for a categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for this determination is contained in a low-effect screening form, which is available for public review. We are accepting comments on the permit application and draft Safe Harbor Agreement.

**DATES:** To ensure consideration, please send your written comments on or before June 27, 2016.

**ADDRESSES:**

*Document Availability:* The draft Safe Harbor Agreement, permit application, and low-effect screening form are available on the Internet at *http://www.fws.gov/midwest/eastlansing/.* Alternatively, these documents are also available for public inspection during normal business hours at the U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Rd., Ste. 101, East Lansing, Michigan 48823.

*Submitting Comments:* Send written comments via U.S. mail to the U.S. Fish and Wildlife Service, Division of Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; by facsimile to 612–713–

5292; or by electronic mail to *permitsr3es@fws.gov*.

**FOR FURTHER INFORMATION CONTACT:** Barbara Hosler, East Lansing Field Office (see **ADDRESSES**); by telephone (517–351–6326) or *barbara_hosler@fws.gov*. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Background Information

Under a Safe Harbor Agreement, participating landowners voluntarily undertake conservation activities on their property to benefit species listed under the ESA (16 U.S.C. 1531 *et seq.*). The Safe Harbor Agreement and associated permit authorize participating landowners to incidentally take Federally listed species that may result from implementation of conservation activities beneficial to the species. The Safe Harbor Agreement also provides participating landowners assurances that no further land, water, or resource-use restrictions, or additional commitments of land, water, or finances, would be imposed beyond those agreed to in the Safe Harbor Agreement, including the option to return their land to the baseline condition established at the time of the Safe Harbor Agreement. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in Service regulations at 50 CFR 17.22 and 17.32.

### Mitchell's Satyr Butterfly Draft Safe Harbor Agreement

We have developed the Draft Safe Harbor Agreement to incentivize certain non-Federal landowners in Michigan and Indiana to volunteer their land for conservation activities beneficial to the Mitchell's satyr butterfly. Under the proposed Safe Harbor Agreement, we would issue a permit to the East Lansing Field Office Project Leader, who would then convey the permits incidental take authorization and assurances to willing landowners through Certificates of Inclusion, for the purpose of facilitating recovery of the Mitchell's satyr butterfly. Consistent with the Safe Harbor Policy (June 17, 1999, 64 FR 32717) and section 7 of the ESA, we would also provide neighboring landowners with incidental take authorization through the section 7 biological opinion, and assurances to those neighboring landowners who participate under the Safe Harbor Agreement.

To enroll in the Safe Harbor Agreement, an eligible landowner would voluntarily work with the Project Leader at the East Lansing Field Office to develop a Mitchell's satyr butterfly reintroduction plan for their property. Each reintroduction plan would identify a conservation zone, consisting mainly of suitable fen habitat for the Mitchell's satyr butterfly, and where habitat management activities would occur. Each reintroduction plan would have a term of 10 to 20 years within the duration of the proposed Safe Harbor Agreement, which is 30 years.

### Species Information

The Mitchell's satyr butterfly population has been in serious decline for years. The species was once found in 30 locations across Michigan, Indiana, and Ohio, with several disjunct populations in New Jersey and possibly Maryland. Currently, Mitchell's satyr butterflies occur at 10 sites in Michigan and 1 site in Indiana. Since the species was listed in 1991, additional populations have been discovered in Virginia, Alabama, and Mississippi; however, genetic studies are inconclusive on the taxonomic relationships of these southern populations to the Michigan and Indiana populations (Hamm 2012). The Service's Recovery Plan for the Mitchell's satyr butterfly calls for the establishment of 25 geographically distinct viable populations, including specific actions to facilitate propagation and reintroduction activities across its historic range.

### Next Steps

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and their implementing regulations. If we determine that all requirements are met, we will sign the proposed Safe Harbor Agreement and issue a permit under section 10(a)(1)(A) of the ESA to the East Lansing Field Office Project Leader. We will not make our final decision on the permit application until after the end of the public comment period, and we will fully consider all comments we receive during the comment period.

### Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Dated: May 6, 2016.

**Lynn M. Lewis,**

*Assistant Regional Director, Ecological Services, Midwest Region.*

[FR Doc. 2016–12438 Filed 5–25–16; 8:45 am]

BILLING CODE 4333–15–P

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## DEPARTMENT OF THE INTERIOR

## Office of the Secretary

**[16XD4523WS DS10200000 DWSN00000.000000 WBS DP10202 1020WSW02]**

## Privacy Act of 1974; as Amended; Notice To Amend an Existing System of Records

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice of amendment to an existing system of records.

**SUMMARY:** The Department of the Interior is issuing public notice of its intent to amend "Electronic FOIA Tracking System and FOIA Case Files—Interior, DOI–71" to update existing routine uses; add six new routine uses; and update the authority, system location, system manager, categories of records, storage, retrievability, safeguards, retention and disposal, notification procedures, record access procedures, contesting record procedures, record source categories, and exemptions sections.

**DATES:** Comments must be received by June 27, 2016. This amended system will be effective June 27, 2016.

**ADDRESSES:** Any person interested in commenting on this amendment may do so by: Submitting comments in writing to Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 5545 MIB, Washington, DC 20240; hand-delivering comments to Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 5545 MIB, Washington, DC 20240; or emailing comments to *Privacy@ios.doi.gov*.

**FOR FURTHER INFORMATION CONTACT:** Departmental FOIA Officer, Office of the Executive Secretariat, Department of the Interior, 1849 C Street NW., Mail Stop 7328–MIB, Washington, DC 20240, or by phone at 202–208–5342.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Department of the Interior ("Department" or "DOI") "Electronic FOIA Tracking System and FOIA Case Files—Interior, DOI–71" system contains information on individuals for the purposes of managing and processing Freedom of Information Act (FOIA) requests, some of which may be processed in tandem with the Privacy Act of 1974, as amended. This system: (1) Enables the Department to administer the program more efficiently while ensuring requests are responded to in a more timely fashion; (2) supports action on FOIA requests, appeals, and litigation; (3) ensures documents are released in a more consistent manner; (4) assists in eliminating the duplication of effort; (5) gathers information for management and reporting purposes, improving the Department's reporting capability and providing for more efficient use of manpower; and (6) improves customer service.

DOI is publishing this amended notice to reflect updated information in the authority, system location, system manager, categories of records, storage, retrievability, safeguards, retention and disposal, notification procedures, record access procedures, contesting record procedures, record source categories, and exemptions sections. Additionally, DOI is modifying existing routine uses to reflect updates consistent with standard DOI routine uses, and adding six new routine uses to permit sharing of information with: The National Archives and Records Administration's (NARA) Office of Government Information Services to assist and facilitate the resolution of disputes related to FOIA requests; NARA to conduct records management inspections; appropriate government agencies and organizations to provide information in response to court orders or for discovery purposes related to litigation; the Office of Management and Budget (OMB) in relation to legislative affairs mandates under OMB Circular A–19; the Department of the Treasury to recover debts owed to the United States; and the news media and the public. The system notice was last published in its entirety in the **Federal Register** on September 18, 2002 (67 FR 58817), and amendments to the system notice were published in the **Federal Register** on February 13, 2008 (73 FR 8342) and February 25, 2010 (75 FR 8731).

The amendments to the system will be effective as proposed at the end of the comment period (the comment period will end 30 days after the publication of this notice in the **Federal Register**), unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of the comments received.

### II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal Agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to records about individuals that are maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information about an individual is retrieved by the name or by some identifying number, symbol, or other identifying particulars assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. As a matter of policy, the Department extends administrative Privacy Act protections to all individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of the Department by complying with the Department of the Interior Privacy Act regulations at 43 CFR part 2, subpart K.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains and the routine uses of each system to make agency recordkeeping practices transparent, notify individuals regarding the uses of their records, and assist individuals to more easily find such records within the agency. The revised "Electronic FOIA Tracking System and FOIA Case Files—Interior, DOI–71" system of records notice is published in its entirety below.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

### III. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 23, 2016.

**Teri Barnett,**

*Departmental Privacy Officer.*

**Interior, DOI–71**

**SYSTEM NAME:**

Electronic FOIA Tracking System and FOIA Case Files—Interior, DOI–71.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

(1) The Electronic FOIA Tracking System (EFTS) database and its servers are maintained by the Office of the Chief Information Officer, U.S. Department of the Interior, 12201 Sunrise Valley Drive, Reston, VA 20192; and (2) FOIA case files in this system (paper or electronic) are located in the offices of Bureau and Office FOIA personnel. (For a partial list of the Department's FOIA contacts, see the Department's FOIA Web site at *https://www.doi.gov/foia/contacts.*)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals or their representatives who have submitted FOIA or combined FOIA and Privacy Act (PA) requests for records or information and administrative appeals, or have litigation pending with DOI or another Federal agency; individuals whose requests or records have been referred to the Department by other agencies; individuals who are the subject of such requests, appeals, and litigation; and/or the DOI personnel assigned to handle such requests, appeals, and litigation.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system consists of records created or compiled in response to FOIA requests, or combined FOIA and PA requests, for records or information, administrative appeals, and related litigation and includes: The original requests and administrative appeals; responses to such requests and appeals; all related memoranda, correspondence, notes, and other related or supported documentation; and in some instances copies of requested records and records under appeal. Records about individuals may include name, mailing address, email address, telephone number, case file number, fee determinations, any information contained in the agency records requested by individuals, and identifying information about individual requestors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, The Freedom of Information Act, as amended; and 5 U.S.C. 552a, The Privacy Act of 1974, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the EFTS and FOIA case files, which are maintained both electronically and in paper format, is to more efficiently manage the Department's FOIA program. This system: (1) Enables the Department to administer the program more efficiently while ensuring requests are responded to in a more timely fashion; (2) Supports action on FOIA requests, appeals, and litigation; (3) Ensures documents are released in a more consistent manner; (4) Assists in eliminating the duplication of effort; (5) Gathers information for management and reporting purposes, improving the Department's reporting capability and providing for more efficient use of manpower; and (6) Improves customer service.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, disclosures outside the Department may be made as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) (a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any Department employee acting in his or her individual capacity if the Department or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) The Department or any component of the Department;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any Department employee acting in his or her official capacity;

(D) Any Department employee acting in his or her individual capacity if the Department or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that the Department is likely to be affected by the proceeding; and

(ii) The Department deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(2) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(3) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(5) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(6) To representatives of the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(7) To state, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(8) To an expert, consultant, or contractor (including employees of the contractor) of the Department that performs services requiring access to these records on the Department's behalf to carry out the purposes of the system.

(9) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(10) To the OMB during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(11) To the Department of the Treasury to recover debts owed to the United States.

(12) To a debt collection agency for the purpose of collecting outstanding debts owed to the Department for fees associated with processing FOIA/PA requests.

(13) To the news media and the public, with the approval of the Public Affairs Officer in consultation with Counsel and the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(14) To other Federal, State, and local agencies having a subject matter interest in a request or an appeal or a decision thereon.

(15) To another Federal agency to assist that agency in responding to an inquiry by the individual to whom that record pertains.

(16) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims

Collection Act of 1996 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records are contained in file cabinets and/or in secured rooms under the control of authorized DOI personnel. Electronic records are contained in computers, compact discs, magnetic tapes, external removable drives, email, diskettes, digital video disks, and electronic databases.

**RETRIEVABILITY:**

Information can be retrieved by specific data elements in the system including: The EFTS tracking number; the name of the requester and/or his/her organizational affiliation; subject; etc. Paper records are normally retrieved by EFTS tracking number or by the name of the person making the request.

**SAFEGUARDS:**

Access to records in the system is limited to authorized personnel whose official duties require such access. Paper records are maintained in file cabinets and/or in secured rooms under the control of authorized DOI personnel. Computer servers in which electronic records are stored are located in secured DOI facilities with physical, technical and administrative levels of security to prevent unauthorized access to the DOI network and information assets. Electronic records are maintained in accordance with the OMB and Departmental guidelines reflecting the implementation of the Federal Information Security Modernization Act of 2014 (Pub. L. 113–283, 44 U.S.C. 3554). Electronic data is protected through user identification, passwords, database permissions and software controls. Such security measures establish different access levels for different types of users. System administrators and authorized users are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training and sign the DOI Rules of Behavior.

**RETENTION AND DISPOSAL:**

Records are maintained under Departmental Records Schedule (DRS) 1—Administrative Records (DAA–0048–2013–0001) that cover FOIA and Privacy Act request files, correspondence, reports, and other program administration and financial management records, which has been approved by NARA. The disposition for these records is temporary and retention periods vary according to the specific record and the needs of the agency. FOIA request files and other short-term administration records are destroyed three years after cut-off, which is generally after the date of reply or the end of the fiscal year in which files are created. Long-term records that require additional retention, such as denials, are destroyed seven years after cut-off, which is generally when the record is closed. Paper records are disposed of by shredding or pulping, and records maintained on electronic media are degaussed or erased in accordance with 384 Departmental Manual 1 and NARA guidelines.

**SYSTEM MANAGER AND ADDRESS:**

(1) The Departmental FOIA Officer, Office of the Executive Secretariat, U.S. Department of the Interior, 1849 C Street NW., MS–7328 MIB, Washington, DC 20240, has overall responsibility for the policies and procedures used to operate the system.

(2) DOI Bureau and Office FOIA Officers and Coordinators in headquarters and in field offices have responsibility for the data inputted into and maintained on the EFTS for their respective organizations along with any FOIA case files. To obtain a current list of the FOIA Officers and Coordinators and their addresses, see *https://www.doi.gov/foia/contacts.*

**NOTIFICATION PROCEDURES:**

An individual requesting notification of the existence of records on himself or herself in this system of records should send a signed, written inquiry to the FOIA Officer or Coordinator of the Bureau or Office that maintains the FOIA records, as identified above. The request envelope and letter should both be clearly marked "PRIVACY ACT INQUIRY." A request for notification must meet the requirements of 43 CFR 2.235.

**RECORDS ACCESS PROCEDURES:**

An individual requesting records on himself or herself should send a signed, written inquiry to the FOIA Officer or Coordinator of the Bureau or Office that maintains the FOIA records, as identified above. The request should describe the records sought as specifically as possible. The request envelope and letter should both be clearly marked "PRIVACY ACT REQUEST FOR ACCESS." A request for access must meet the requirements of 43 CFR 2.238.

**CONTESTING RECORDS PROCEDURES:**

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the FOIA Officer or Coordinator of the Bureau or Office that maintains the FOIA records, as identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

**RECORD SOURCE CATEGORIES:**

Information gathered in this system is submitted by individuals, agencies, or corporate entities filing FOIA requests and agency employees processing these requests. Information is also taken from the following Privacy Act systems of records: Freedom of Information Act Appeal Files—Interior, OS–69, and Privacy Act Files—Interior, DOI–57.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

To the extent that copies of exempt records from other systems of records are entered into this system, the Department of the Interior claims the same exemptions for those records that are claimed for the original primary systems of records from which they originated.

[FR Doc. 2016–12541 Filed 5–25–16; 8:45 am]

BILLING CODE 4334–63–P

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## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1001]**

### Certain Digital Video Receivers and Hardware and Software Components Thereof; Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 6, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Rovi Corporation of San Carlos, California and Rovi Guides, Inc. of San Carlos, California. An amended complaint was filed on April 25, 2016. The complaint, as amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital video receivers and hardware and software components thereof by reason of infringement of certain claims of U.S. Patent No. 8,006,263 ("the '263 patent"); U.S. Patent No. 8,578,413 ("the '413 patent"); U.S. Patent No. 8,046,801 ("the '801 patent"); U.S. Patent No. 8,621,512 ("the '512 patent"); U.S. Patent No. 8,768,147 ("the '147 patent"); U.S. Patent No. 8,566,871 ("the '871 patent");

and U.S. Patent No. 6,418,556 ("the '556 patent"). The amended complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, as amended, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**FOR FURTHER INFORMATION CONTACT:** The Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2016).

*Scope of Investigation:* Having considered the amended complaint, the U.S. International Trade Commission, on May 23, 2016, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain digital video receivers and hardware and software components thereof by reason of infringement of one or more of claims 1, 2, 5, 6, 8, 9, 11, 12, 14, 15, 17, and 18 of the '263 patent; claims 1, 3, 5–10, 12, and 14–18 of the '413 patent; claims 1–54 of the '801 patent; claims 1, 2–4, 8–16, and 20–24 of the '512 patent; claims 1, 5, 6, 8, 10, 11, 15, 16, 18, and 20–24 of the '147 patent; claims 1, 2, 6–13, 17–24, 28–33 of the '871 patent; and claims 2–4, 7, 10–14, 16, 18–22, 24, 26, 28, 30, 33, 35, 36, 39, and 40 of the '556 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Rovi Corporation, 2 Circle Star Way, San Carlos, CA 94070
Rovi Guides, Inc., 2 Circle Star Way, San Carlos, CA 94070

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Comcast Corporation, One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103
Comcast Cable Communications, LLC, One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103
Comcast Cable Communications Management, LLC, One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103
Comcast Business Communications, LLC, One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103
Comcast Holdings Corporation, One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103
Comcast Shared Services, LLC, 330 N. Wabash Ave. 22, Chicago, IL 60611–3586
Technicolor SA, 1–5 Rue Jeanne d'Arc, 92130, Issy-les-Moulineaux, France
Technicolor USA, Inc., 10330 North Meridian Street, Indianapolis, IN 46290
Technicolor Connected Home USA LLC, 101 West 103rd Street, Indianapolis, IN 46290
Pace Ltd., Victoria Road, Saltaire, West Yorkshire, BD18 3LF, England
Pace Americas, LLC, 3701 FAU Boulevard, Suite 200, Boca Raton, FL 33431
Arris International plc, 3871 Lakefield Drive, Suwanee, GA 30024
Arris Group Inc., 3871 Lakefield Drive, Suwanee, GA 30024
Arris Technology, Inc., 101 Tournament Drive, Horsham, PA 19044
Arris Enterprises Inc., 3871 Lakefield Drive, Suwanee, GA 30024
Arris Solutions, Inc., 3871 Lakefield Drive, Suwanee, GA 30024

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 23, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2016–12466 Filed 5–25–16; 8:45 am]

**BILLING CODE 7020–02–P**

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## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1000]**

## Certain Motorized Self-Balancing Vehicles; Notice of Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 22, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Razor USA LLC of Cerritos, California; Inventist, Inc. of Camas, Washington; and Shane

Chen of Camas, Washington. Supplements to the complaint were filed on March 23, April 12 and 13, and May 5, 2016. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain motorized self-balancing vehicles by reason of infringement of certain claims of U.S. Patent No. 8,738,278 ("the '278 patent") and that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. The complaint further alleges violations of section 337 based on the importation into the United States, or in the sale of certain motorized self-balancing vehicles by reason of false advertising and misrepresentation and unfair competition, the threat or effect of which is to destroy or substantially injure an industry in the United States or to prevent the establishment of such an industry.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**FOR FURTHER INFORMATION CONTACT:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2016).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on May 20, 2016, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain motorized self-balancing vehicles by reason of infringement of one or more of claims 1–9 of the '278 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337; and

(b) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, or in the sale of certain motorized self-balancing vehicles by reason of false advertising and misrepresentation and unfair competition, the threat or effect of which is to destroy or substantially injure an industry in the United States or to prevent the establishment of such an industry.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Razor USA LLC, 12723 166th St., Cerritos, California 90703.
Inventist, Inc., 4901 NW Camas Meadows Drive, Camas, Washington 98607.
Shane Chen, 4901 NW. Camas Meadows Drive, Camas, Washington 98607.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Alibaba Group Holding Ltd., c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong.
Alibaba.com Ltd., 699 Wang Shang Road, Binjiang District, Hangzhou 310052 China.
Hangzhou Chic Intelligent Technology Co., Ltd, 2/F, No. 2 Building, Liangzhu University Science and Technology Park, No. 1 Jingyi Road, Liangzhu, Hangzhou, 311112, China.
Contixo, 1910 S. Archibald Ave., Ste. A, Ontario, CA 91761.
ZTO Store a.k.a. ZTO Trading, Inc., 333 W. Garvey Ave., Ste. B–128, Monterey Park, CA 91754.
CyBoard LLC a.k.a. Shark Empire Inc., 675 W Broadway, Glendale, CA 91204.
Genius Technologies a.k.a. Prime Capital, 755 East 31st Street, Hastings, MN 55033.
GyroGlyder.com, 1988 E. Alpine Ave., Stockton, CA 95205.
HoverTech, 1600 Worldwide Blvd., Hebron, KY 41048.
InMotion Entertainment Group LLC, 4801 Executive Park Court, Suite 100, Jacksonville, FL 32216.
Soibatian Corporation dba IO Hawk and dba Smart Wheels, 1125 E. Broadway #317, Glendale, CA 91205.
Jetson Electric Bikes LLC, 175 Varick Street, New York, NY 10014.
Joy Hoverboard, a.k.a. Huizhou Aoge, Enterprize Co. Ltd., Huizhou City, with its Pliasant Factory, Shuikou Subdistrict Office, Huizhou, 516005, China.
Shenzhen Kebe Technology Co., Ltd., 4th Floor, Building C, Honglianying T&S, Zone, Sili Road 286, Longhua District, Shenzhen, China.
Leray Group, 3/F., HiChina Mansion, No. 27 Gulouwai Avenue, Dongcheng District, Beijing 100120, China.
Modell's Sporting Goods, Inc., 498 7th Ave., 20th Floor, New York, NY 10018.
Newegg.com Inc., 16839 East Gale Avenue, City of Industry, CA 91745.
PhunkeeDuck, Inc., 250 Jericho Turnpike, Floral Park, NY 11001.
Powerboard a.k.a. Optimum Trading Co., 1600 Worldwide Blvd., Hebron, KY 41048.
Shareconn International, Inc., 9A Unit Q 32 Dong Kang Qiao Zi Jun, Buji Town, Shenzhen, Guangdong, China.
Shenzhen Chenduoxing Electronic Technology Ltd., 4/F, Block C11, Fuyuan Industrial City, Jiuwei, Xixiang, Bao'an Area, Shenzhen, Guangdong, China.
Shenzhen Jomo Technology Co., Ltd., Floor 4th and 7th, Caiyue Bldg., Meilong Road, Bao'an Dist., Shenzhen City, 518112, China.
Shenzhen R.M.T. Technology Co., Ltd., Rm. 711, Shangcheng Business Mansion, No. 73–1, Changjiangpu Road, He'ao, Henggang Street, Longgang Dist., Shenzhen, Guangdong, China.
Shenzhen Supersun Technology Co. Ltd., a.k.a. Aottom, Rm. 2308A, 2308B, International Cultural Building, Futian Road, Futian District, Shenzhen, Guangdong, China.
Skque Products, 12711 Ramona Blvd. Suite 105, Irwindale, CA 91706.
Spaceboard USA, 604 Oakmont Lane, Norcross, Georgia, 30093.
Swagway LLC, 3431 William Richardson Dr., Suite F, South Bend, IN 46628.
Twizzle Hoverboard, 18193 Valley Blvd., La Puente, CA 91744.

Uwheels, 3007 N. Main St., Santa Ana, CA 92705.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 20, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2016–12372 Filed 5–25–16; 8:45 am]

BILLING CODE 7020–02–P

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## DEPARTMENT OF JUSTICE

### [Docket No. ODAG 162]

## Notice of Federal Advisory Committee Meeting

**AGENCY:** Department of Justice.

**ACTION:** Notice of Federal Advisory Committee Meeting. Request for Public Comment.

**SUMMARY:** The National Commission on Forensic Science will hold meeting ten at the time and location listed below.

**DATES:** (1) Public Hearing. The meeting will be held on June 20, 2016 from 9:00 a.m. to 1:00 p.m. and June 21, 2016 from 9:00 a.m. to 5:00 p.m.

(2) Written Public Comment. Written public comment regarding National Commission on Forensic Science meeting materials can be submitted through *www.regulations.gov* starting on June 6, 2016. Any comments should be posted to *www.regulations.gov* no later than July 5, 2016.

*Location:* Office of Justice Programs, 3rd floor Main Conference Room. 810 7th Street NW., Washington, DC 20531.

**FOR FURTHER INFORMATION CONTACT:** Jonathan McGrath, Ph.D., Senior Policy Analyst at the National Institute of Justice and Designated Federal Official, 810 7th Street NW., Washington, DC 20531, by email at *Jonathan.McGrath@usdoj.gov* by phone at (202) 514–6277.

**SUPPLEMENTARY INFORMATION:**

*Agenda:* Open Meeting: The Commission will meet on June 20, 2016, 9:00 a.m. to 1:00 p.m. and June 21, 2016, 9:00 a.m. to 5:00 p.m. On June 20, the Commission will receive a presentation from the DOJ Office of Legal Policy on the Forensic Science Discipline Review methodology and a briefing on professional certification and licensing. On June 21, the Commission will receive Subcommittee status reports and a briefing on digital forensics. Note: agenda items, including designation of presentation dates are subject to change. A final agenda will be posted to the Commission's Web site in advance of the meeting.

*Meeting Accessibility:* Pursuant to 41 CFR 102–3.140 through 102–3.165 and the availability of space, the meeting scheduled for June 20, 2016, 9:00 a.m. to 1:00 p.m. and June 21, 2016, 9:00 a.m. to 5:00 p.m. at the Office of Justice Programs is open to the public and webcast. Seating is limited and pre-registration is strongly encouraged. Media representatives are also encouraged to register in advance.

*Written Comments:* Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written comments to the Commission in response to the stated agenda and meeting material. Meeting material, including work products will be made available on the Commission's Web site: *http://www.justice.gov/ncfs.*

*Oral Comments:* In addition to written statements, members of the public may present oral comments at 1:00 p.m. on June 20, 2016 and at 5:00 p.m. on June 21, 2016. Those individuals interested in making oral comments should indicate their intent through the on-line registration form and time will be allocated on a first-come, first-served basis. Time allotted for an individual's comment period will be limited to no more than 3 minutes. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled public comment periods, written comments can be submitted through *www.regulations.gov* in lieu of oral comments.

*Registration:* Individuals and entities who wish to attend the public meeting are strongly encouraged to pre-register for the meeting on-line by clicking the registration link found at: *https://www.justice.gov/ncfs/term-2-meetings-8-15#s10.* Online registration for the meeting must be completed on or before 5:00 p.m. (EST) June 13, 2016.

*Additional Information:* The Department of Justice welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations, please indicate your requirements on the online registration form.

Dated: May 18, 2016.

**Andrew J. Bruck,**

*Senior Counsel to the Deputy Attorney General, National Commission on Forensic Science.*

[FR Doc. 2016–12403 Filed 5–25–16; 8:45 am]

BILLING CODE 4410–18–P

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## DEPARTMENT OF LABOR

## Employee Benefits Security Administration

## Proposed Extension of Information Collection Requests

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents

described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. ICRs also are available at reginfo.gov (*http://www.reginfo.gov/public/do/PRAMain*).

**DATES:** Written comments must be submitted to the office shown in the **ADDRESSES** section on or before July 25, 2016.

**ADDRESSES:** G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210, *cosby.chris@dol.gov,* (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

**I. SUPPLEMENTARY INFORMATION:** This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transactions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Prohibited Transaction Class Exemption for Certain Transactions Between Investment Companies and Employee Benefit Plans (PTE 77–4).

*Type of Review:* Extension of a currently approved collection of information.

*OMB Number:* 1210–0049.

*Affected Public:* Not-for-profit institutions, Businesses or other for-profits.

*Respondents:* 700.

*Responses:* 399,300.

*Estimated Total Burden Hours:* 33,640.

*Estimated Total Burden Cost (Operating and Maintenance):* $219,000.

*Description:* Prohibited Transaction Exemption (PTE) 77–4 provides relief from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974, as amended (ERISA) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986, as amended (the Code), for an employee benefit plan's purchase or sale of shares of an open-end investment company registered under the Investment Company Act of 1940 (mutual fund) when an investment advisor for the mutual fund or its affiliate is: (1) A plan fiduciary; and (2) not an employer of employees covered by the plan.

Section II(d) of PTE 77–4 contains certain conditions for the exemptive relief and provides, in pertinent part, that: A second fiduciary with respect to the plan, who is independent of and unrelated to the fiduciary/investment adviser or any affiliate thereof, receives a current prospectus issued by the investment company, and full and detailed written disclosure of the investment advisory and other fees charged to or paid by the plan and the investment company, including the nature and extent of any differential between the rates of such fees, the reasons why the fiduciary/investment adviser may consider such purchases to be appropriate for the plan, and whether there are any limitations on the fiduciary/investment adviser with respect to which plan assets may be invested in shares of the investment company and, if so, the nature of such limitations.

Delivery of a "summary prospectus" may be used to satisfy the condition in section II(d) of PTE 77–4 requiring the delivery of a mutual fund's prospectus to the second fiduciary if the summary prospectus meets the requirements of the Securities and Exchange Commission's (SEC) revised disclosure provisions for mutual funds including a summary prospectus rule that were published in 2009. Pursuant to the SEC's revised disclosure provisions, mutual funds also are required to send the full prospectus to the investor upon an investor's request and to provide the full prospectus on-line at a specified Internet site. The Department previously submitted an ICR to OMB for approval of the information collections in PTE 77–4 and received OMB approval under OMB Control No. 1210–0049. The current approval is scheduled to expire on August 31, 2016.

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Notice Requirements of the Health Care Continuation Coverage Provisions.

*Type of Review:* Extension of a currently approved information collection.

*OMB Number:* 1210–0123.

*Affected Public:* Businesses or other for-profits.

*Respondents:* 599,000.

*Responses:* 20,712,556.

*Estimated Total Burden Hours:* 0.

*Estimated Total Burden Cost (Operating and Maintenance):* $26,554,404.

*Description:* The continuation coverage provisions of section 601 through 608 of the Employee Retirement Income Security Act of 1974 (ERISA) (and parallel provisions of the Internal Revenue Code (Code)) generally require group health plans to offer qualified beneficiaries the opportunity to elect continuation coverage following certain events that would otherwise result in the loss of coverage. Continuation coverage is a temporary extension of the qualified beneficiary's previous group health coverage. The right to elect continuation coverage allows individuals to maintain group health coverage under adverse circumstances and to bridge gaps in health coverage that otherwise could limit their access to health care. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provides the Secretary of Labor (the Secretary) with authority under section 608 of ERISA to carry out the continuation coverage provisions. The Conference Report that accompanied COBRA divided interpretive authority over the COBRA provisions between the Secretary and the Secretary of the Treasury (the Treasury) by providing that the Secretary has the authority to issue regulations implementing the notice and disclosure requirements of COBRA, while the Treasury is authorized to issue regulations defining the required continuation coverage. The ICR contained in these rules was approved by the Office of Management and Budget (OMB) under OMB Control Number 1210–0123, which is currently scheduled to expire on October 31, 2016.

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Model Employer Children's Health Insurance Program Notice.

*Type of Review:* Extension of a currently approved collection of information.

*OMB Number:* 1210–0137.

*Affected Public:* Businesses or other for-profits, Farms, Not-for-profit institutions.

*Respondents:* 5,961,000.

*Responses:* 174,347,154.

*Estimated Total Burden Hours:* 900,519.

*Estimated Total Burden Cost (Operating and Maintenance):* $21,619,363.

*Description:* On February 4, 2009, President Obama signed the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA, Pub. L. 111–3). Under ERISA section 701(f)(3)(B)(i)(I), PHS Act section 2701(f)(3)(B)(i)(I), and section 9801(f)(3)(B)(i)(I) of the Internal Revenue Code, as added by CHIPRA, an employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act (SSA), or child health assistance under a State child health plan under title XXI of the SSA, in the form of premium assistance for the purchase of coverage under a group health plan, is required to make certain disclosures. Specifically, the employer is required to notify each employee of potential opportunities currently available in the State in which the employee resides for premium assistance under Medicaid and CHIP for health coverage of the employee or the employee's dependents.

ERISA section 701(f)(3)(B)(i)(II) requires the Department of Labor to provide employers with model language for the Employer CHIP Notices to enable them to timely comply with this requirement. This ICR relates to the Model Employer CHIP Notice, which was approved by OMB under OMB Control Number 1210–0137 and currently scheduled to expire on October 31, 2016.

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Notice of Medical Necessity Criteria under the Mental Health Parity and Addiction Equity Act of 2008.

*Type of Review:* Extension of a currently approved collection of information.

*OMB Number:* 1210–0138.

*Affected Public:* Businesses or other for-profits, Not-for-profit institutions.

Respondents: 1,258,000.

*Responses:* 629,000.

*Estimated Total Burden Hours:* 6,000.

*Estimated Total Burden Cost (Operating and Maintenance):* $1,494,000.

*Description:* MHPAEA includes disclosure provisions for group health plans and health insurance coverage offered in connection with a group health plan. The criteria for medical necessity determinations made under a group health plan with respect to mental health or substance use disorder benefits (or health insurance coverage offered in connection with the plan with respect to such benefits) must be made available in accordance with regulations by the plan administrator (or the health insurance issuer offering such coverage) to any current or potential participant, beneficiary, or contracting provider upon request ("medical necessity disclosure"). The ICR contained in MHPAEA was approved by the Office of Management and Budget (OMB) under OMB Control No. 1210–0138, which currently is scheduled to expire on November 30, 2016.

## II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICRs for OMB approval of the extension of the information collection; they will also become a matter of public record.

**Joseph S. Piacentini,**

*Director, Office of Policy and Research, Employee Benefits Security Administration.*

[FR Doc. 2016–12363 Filed 5–25–16; 8:45 am]

**BILLING CODE 4510–29–P**

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# DEPARTMENT OF LABOR

## Office of the Secretary

## Agency Information Collection Activities; Submission for OMB Review; Comment Request; Access to Multiemployer Plan Information

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, "Access to Multiemployer Plan Information," to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before June 27, 2016.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201604-1210-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Access to Multiemployer Plan Information collection that provides certain actuarial and financial information to multiemployer defined benefit pension plan participants and beneficiaries, employee representatives, and any employer that has an obligation to contribute to such a plan. Employee Retirement Income Security Act of 1974 section 101(k) authorizes this information collection. *See* 29 U.S.C. 1021(k).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0131.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2016. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 23, 2015 (80 FR 72990).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0131. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

*Agency:* DOL–EBSA.

*Title of Collection:* Access to Multiemployer Plan Information.

*OMB Control Number:* 1210–0131.

*Affected Public:* Private Sector—businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 2,720.

*Total Estimated Number of Responses:* 242,000.

*Total Estimated Annual Time Burden:* 31,000 hours.

*Total Estimated Annual Other Costs Burden:* $537,000.

Dated: May 20, 2016.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2016–12457 Filed 5–25–16; 8:45 am]

**BILLING CODE 4510–29–P**

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## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; H–1B Technical Skills Training and Jobs and Innovation Accelerator Challenge Grants

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, "H–1B Technical Skills Training and Jobs and Innovation Accelerator Challenge Grants," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before June 27, 2016.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201604-1205-006* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the H–1B Technical Skills Training (TST) and Jobs and Innovation Accelerator Challenge (JIAC) Grants information collection. In applying for the H–1B TST, JAIC, and Ready to Work grant programs, grantees agree to submit participant-level data quarterly for individuals who receive services through these programs. The reports include aggregate data on demographic characteristics, types of services received, placements, outcomes, and follow-up status. Specifically, grantees summarize data on employment and training services, placement services, and other services essential to successful unsubsidized employment through H–1B programs. This reporting structure features standardized data collection on program participants and quarterly narrative, performance, and Management Information System report formats. All data collection and reporting will be done by grantee organizations (State or local governments, not-for-profit, or faith-based and community organizations) or their sub-grantees. This information collection has been classified as a revision because of (1) code value formatting changes; (2) additional technical assistance guidance in the *Handbook to Performance Reporting;* (3) reformatting the *Handbook* to improve its readability; (4) removing duplicative data elements listed on Form ETA–9166, Standardized Quarterly Progress Report; (5) changes to an evaluation consent form; (6) the addition of a baseline information form to support data collection; and (7) the removal of information collections related to completed site visit activities. American Competitiveness and Workforce Improvement Act of 1998 section 414(c) authorizes this information collection. *See* 29 U.S.C. 219(c) note.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0507. The current approval is scheduled to expire on May 31, 2016; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 23, 2016 (81 FR 8992).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0507. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* H–1B Technical Skills Training and Jobs and Innovation Accelerator Challenge Grants.

*OMB Control Number:* 1205–0507.

*Affected Public:* State, Local, and Tribal Governments; Individuals or Households; and Private Sector—not-for-profit institutions.

*Total Estimated Number of Respondents:* 25,170.

*Total Estimated Number of Responses:* 50,740.

*Total Estimated Annual Time Burden:* 73,360 hours.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: May 20, 2016.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2016–12456 Filed 5–25–16; 8:45 am]

BILLING CODE 4510–FP–P

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## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

### [Docket No. OSHA–2016–0005]

### Preparations for the 31st Session of the UN Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS)

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice is to advise interested persons that on Tuesday, June 14, 2016, OSHA will conduct a public meeting to discuss proposals in preparation for the 31st session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS) to be held July 5 to July 8, 2016 in Geneva, Switzerland. OSHA, along with the U.S. Interagency GHS (Globally Harmonized System of Classification and Labelling of Chemicals) Coordinating Group, plans to consider the comments and information gathered at this public meeting when developing the U.S. Government positions for the UNSCEGHS meeting. Members of the Regulatory Cooperation Council (RCC) will be present to update Canada's status of their GHS policy and procedures. International conference call capability will be available for this portion of the public meeting.

Also, on Tuesday, June 14, 2016, the Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA) will conduct a public meeting (See Docket No. PHMSA–2016–0060, Notice No. 16–7) to discuss proposals in preparation for the 49th session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCE TDG) to be held June 27 to July 6, 2016, in Geneva, Switzerland. During this meeting, PHMSA is also requesting comments relative to potential new work items that may be considered for inclusion in its international agenda. PHMSA will also provide an update on recent actions to enhance transparency and stakeholder interaction through improvements to the international standards portion of its Web site.

**DATES:** Tuesday June 14, 2016.

**ADDRESSES:** Both meetings will be held at the DOT Headquarters Conference Center, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590.

*Times and Locations:*

*PHMSA public meeting:* 9:00 a.m. to 12:00 p.m. EDT, Conference Room 4.

*OSHA public meeting:* 1:00 p.m. to 4:00 p.m. EDT, Conference Room 4.

*Advanced Meeting Registration:* The DOT requests that attendees pre-register for these meetings by completing the form at: *https://www.surveymonkey.com/r/Q3Z53PT*. Attendees may use the same form to pre-register for both the PHMSA and the OSHA meetings. Failure to pre-register may delay your access into the DOT Headquarters building. Additionally, if you are attending in-person, arrive early to allow time for security checks necessary to access the building. Conference call-in and "live meeting" capability will be provided for both meetings.

The number is reserved and the Live Meeting link is setup for all day.

*Toll Free (USA):*
Toll Free: 888–675–2535
Access code: 3614708
*International callers:*
International Toll: 215–446–0145
Access: 3614708
Attendee URL: *https://meet.dot.gov/steven.webb/66C89T9M*

**FOR FURTHER INFORMATION CONTACT:** At the Department of Transportation, please contact Mr. Steven Webb or Mr. Aaron Wiener, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590, telephone: (202) 366–8553.

At the Department of Labor, please contact Maureen Ruskin, Office of Chemical Hazards-Metals, OSHA Directorate of Standards and Guidance, Department of Labor, Washington DC 20210, telephone: (202) 693–1950, email: *ruskin.maureen@dol.gov*.

**SUPPLEMENTARY INFORMATION:** *The OSHA Meeting:* OSHA is hosting an open informal public meeting of the U.S. Interagency GHS Coordinating Group to provide interested groups and individuals with an update on GHS-related issues and an opportunity to express their views orally and in writing for consideration in developing U.S. Government positions for the upcoming UNSCEGHS meeting.

General topics on the agenda include:

- Review of Working papers
- Correspondence Group updates

- Regulatory Cooperation Council (RCC) Update

Information on the work of the UNSCEGHS including meeting agendas, reports, and documents from previous sessions, can be found on the United Nations Economic Commission for Europe (UNECE) Transport Division Web site located at the following web address; *http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html.*

The UNSCEGHS bases its decisions on Working Papers. The Working Papers for the 31st session of the UNSCEGHS are located at: *http://www.unece.org/trans/main/dgdb/dgsubc4/c42016.html.*

Informal Papers submitted to the UNSCEGHS provide information for the Sub-committee and are used either as a mechanism to provide information to the Sub-committee or as the basis for future Working Papers. Informal Papers for the 31st session of the UNSCEGHS are located at: *http://www.unece.org/trans/main/dgdb/dgsubc4/c4inf31.html.*

In addition to participating at the Public meeting, interested parties may submit comments on the Working and Informal Papers for the 31st session of the UNSCEGHS to the docket established for International/Globally Harmonized System (GHS) efforts at *http://www.regulations.gov,* Docket No. OSHA–2016–0005.

*The PHMSA Meeting:* The **Federal Register** notice and additional detailed information relating to PHMSA's public meeting will be available upon publication at *http://www.regulations.gov* (Docket No. PHMSA–2016–0060, Notice No. 16–7), and on the PHMSA Web site at: *http://www.phmsa.dot.gov/hazmat/regs/international.* The primary purpose of PHMSA's meeting will be to prepare for the 49th session of the UNSCE TDG. The 49th session of the UNSCE TDG is the third of four meetings scheduled for the 2015–2016 biennium. The UNSCE TDG will consider proposals for the 20th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations, which may be implemented into relevant domestic, regional, and international regulations from January 1, 2019. Copies of working documents, informal documents, and the meeting agenda may be obtained from the United Nations Transport Division's Web site at *http://www.unece.org/trans/danger/danger.html.*

*Authority and Signature:* This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), and Secretary's Order 1–2012 (77 FR 3912), (Jan. 25, 2012).

Signed at Washington, DC, on, May 23, 2016.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2016–12455 Filed 5–25–16; 8:45 am]

BILLING CODE 4510–26–P

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## NUCLEAR REGULATORY COMMISSION

[NRC–2016–0088]

## Draft Standard Review Plan on Foreign Ownership, Control, or Domination, Revision 1

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Standard review plan draft section revision; extension of comment period.

**SUMMARY:** On April 27, 2016, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on the Draft Standard Review Plan on Foreign Ownership, Control, or Domination, Revision 1. The public comment period was originally scheduled to close on May 27, 2016. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

**DATES:** The due date for comments requested in the document published on April 27, 2016 (81 FR 24893) is extended. Comments should be filed no later than July 25, 2016. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0088. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Shawn W. Harwell, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1309, email: *Shawn.Harwell@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2016–0088 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0088.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Draft Standard Review Plan on Foreign Ownership, Control, or Domination, Revision 1, is available in ADAMS under Accession No. ML16048A025.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### *B. Submitting Comments*

Please include Docket ID NRC–2016–0088 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## II. Discussion

On April 27, 2016, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on the Draft Standard Review Plan (SRP) on Foreign Ownership, Control, or Domination, Revision 1. The purpose of issuing this revision to the SRP is to provide guidance and establish procedures for NRC staff's review of whether an applicant for a nuclear facility license issued under sections 103.d., "Commercial Licenses," or 104.d., "Medical Therapy and Research and Development," of the Atomic Energy Act of 1954, as amended (AEA or Act), is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government (individually or collectively, a foreign entity). This SRP will be used as the basis for the conduct of FOCD reviews associated with license applications for new facilities, to be licensed under Title 10 of the *Code of Federal Regulations* (10 CFR), Parts 50 and 52; applications for the renewal of facility licenses under 10 CFR part 54; or, applications for approval of direct or indirect transfers of facility licenses. The public comment period was originally scheduled to close on May 27, 2016. The NRC has decided to extend the public comment period on this document until July 25, 2016, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 19th day of May 2016.

For the Nuclear Regulatory Commission.

**William M. Dean,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 2016–12545 Filed 5–25–16; 8:45 am]

**BILLING CODE 7590–01–P**

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## NUCLEAR REGULATORY COMMISSION

**[NRC–2016–0088]**

## Foreign Ownership, Control, or Domination of Nuclear Power, and Non-Power Production or Utilization Facility

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory guide; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide on Foreign Ownership, Control, or Domination of Nuclear Power, and Non-Power Production or Utilization Facility. The NRC is issuing this guidance to provide NRC staff's regulatory position to applicants for, and licensees of, nuclear power reactors and non-power production or utilization facilities (NPUFs), regarding methods acceptable to the staff of the NRC for complying with foreign ownership, control, or domination (FOCD) requirements, including guidance on the subject of foreign financing.

This draft regulatory guide may be used in connection with license applications for new facilities, renewal of existing licenses, or applications for approval of direct or indirect transfers of facility licenses.

**DATES:** Submit comments by July 25, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0088. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Shawn W. Harwell, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1309, email: *Shawn.Harwell@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### A. Obtaining Information

Please refer to Docket ID NRC–2016–0088 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0088.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The draft regulatory guide is available in ADAMS under Accession No. ML16137A520.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### B. Submitting Comments

Please include Docket ID NRC–2016–0088 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## II. Discussion

The NRC is issuing this draft regulatory guide on FOCD, to provide NRC staff's regulatory position regarding methods acceptable to the staff for determining whether an applicant for a nuclear facility license issued under sections 103.d., "Commercial Licenses," or 104.d., "Medical Therapy and Research and Development," of the Atomic Energy Act of 1954, as amended (AEA or Act), is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government (individually or collectively, a foreign entity). Pursuant to Commission direction in SRM–SECY–14–0089, this draft guidance is complementary to the staff's draft revision of the standard review plan (SRP) on FOCD. Specifically, the revision of the SRP establishes guidance on graded negation action plan (NAP) criteria; provides for the consideration of site-specific criteria, as necessary; allows for the use of license conditions to incorporate NAPs and the staff's "totality of facts" review approach; and, incorporates provisions for analyzing foreign financing. This draft regulatory guide and the SRP may be used by applicants or licensees for complying with FOCD requirements, including guidance on the subject of foreign financing. This draft regulatory guide may be used for license applications for new facilities, to be licensed under parts 50 and 52 of title 10 of the *Code of Federal Regulations* (10 CFR), applications for the renewal of facility licenses; or, applications for approval of direct or indirect transfers of facility licenses.

The provisions in the AEA for FOCD and inimicality, and the staff's reviews of these areas under NRC regulations, are derived from the same national security concerns, but appear in separate and distinct language in the AEA. As such, the FOCD determination is to be made with an orientation toward the common defense and security. The FOCD provisions in the AEA and NRC's regulations are country-neutral, whereas the staff's inimicality review and its findings directly account for a license applicant's country of origin and any ties or interests that could result in a determination of inimicality. While FOCD and inimicality are complementary, this draft regulatory guide does not address the means for determining whether issuance of a license would be inimical to the common defense and security or to the health and safety of the public.

While this draft regulatory guide is complementary to the draft FOCD SRP, which is currently issued for public comment, there are differences between the two. This draft guidance was completed after the FOCD SRP was issued for public comment, therefore guidance on some topics have been further refined. Specifically, this draft regulatory guide includes the consideration of NPUF applicants and licensees, as applicable, and also interagency comments on provisions for FOCD analysis and negation action plan development. These topics will be addressed, as applicable, in the draft FOCD SRP prior to finalizing for Commission approval.

## III. Backfitting and Issue Finality

This draft regulatory guide describes acceptable methods for determining whether an applicant for (or holder of) a nuclear facility license issued under sections 103.d., "Commercial Licenses," or 104.d., "Medical Therapy and Research and Development," of the Atomic Energy Act of 1954, as amended (AEA or Act), is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government (individually or collectively, a foreign entity). This determination, and any applicant or licensee actions needed to demonstrate that the applicant or licensee is not owned, controlled or dominated by an alien, a foreign corporation, or a foreign government, is not within the purview of the Backfit Rule, 10 CFR 50.109 or the issue finality provisions in 10 CFR part 52. Accordingly, the issuance of this regulatory guide does not represent backfitting or a violation of any issue finality provisions in part 52.

Dated at Rockville, Maryland, this 16th day of May 2016.

For the Nuclear Regulatory Commission.

**William M. Dean,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 2016–12546 Filed 5–25–16; 8:45 am]

BILLING CODE 7590–01–P

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## PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

### Seventh Northwest Electric Power and Conservation Plan

**AGENCY:** Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power and Conservation Council; the Council).

**ACTION:** Notice of adoption of the Seventh Northwest Electric Power and Conservation Plan.

**SUMMARY:** The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (16 U.S.C. 839 *et seq.*) requires the Council to adopt and periodically review and revise a regional power plan, the Northwest Electric Power and Conservation Plan. The Council first adopted the power and conservation plan in 1983, with significant amendments or complete revisions adopted in 1986, 1991, 1998, 2004 and 2010. The Council began a review of the power and conservation plan in March 2013, and in October 2015 the Council released for public review and comment the Draft Northwest Seventh Electric Power and Conservation Plan. During the comment period, the Council held public hearings in each of the four Northwest states, as required by the Northwest Power Act, engaged in consultations about the power and conservation plan with various governments, entities and individuals in the region, and accepted and considered substantial written and oral comments.

At the Council's regularly scheduled public meeting in February 2016 in Portland, Oregon, the Council formally adopted the revised power and conservation plan, called the Seventh Northwest Electric Power and Conservation Plan. The revised power and conservation plan meets the requirements of the Northwest Power Act, which specifies the components the power plan is to have, including an energy conservation program, a recommendation for research and development; a methodology for determining quantifiable environmental costs and benefits; a 20-year demand forecast; a forecast of power resources that the Bonneville Power Administration will need to meet its obligations; and an analysis of reserve and reserve reliability requirements. The power and conservation plan also includes the Council's Columbia River Basin Fish and Wildlife Program, developed pursuant to other procedural requirements under the Northwest Power Act. The Council followed the adoption of the power and conservation plan with a decision at its regular monthly meeting in May 2016 in Boise, Idaho, to approve a Statement of Basis and Purpose and Response to Comments to accompany the final plan.

The final power and conservation plan is available on the Council's Web site, at *http://www.nwcouncil.org/energy/powerplan/7/home/.*

**FOR FURTHER INFORMATION CONTACT:** If you would like more information, or assistance in obtaining a copy of the Seventh Power Plan, please contact the Council's central office. The Council's address is 851 SW Sixth Avenue, Suite 1100, Portland, Oregon 97204. The Council's telephone numbers are 503–222–5161, and 800–452–5161; the Council's FAX is 503–820–2370, and the Council's Web site is: *www.nwcouncil.org.*

**Stephen L. Crow,**

*Executive Director.*

[FR Doc. 2016–12474 Filed 5–25–16; 8:45 am]

**BILLING CODE P**

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## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2016–132 and CP2016–169; Order No. 3306]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 215 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 1, 2016.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

### I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 215 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

### II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–132 and CP2016–169 to consider the Request pertaining to the proposed Priority Mail Contract 215 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than June 1, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in these dockets.

### III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–132 and CP2016–169 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than June 1, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2016–12395 Filed 5–25–16; 8:45 am]

**BILLING CODE 7710–FW–P**

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## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2016–135 and CP2016–172; Order No. 3302]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 218 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 1, 2016.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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### I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 218 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

### II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–135 and CP2016–172 to consider the Request pertaining to the proposed Priority Mail Contract 218 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39

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[1] Request of the United States Postal Service to Add Priority Mail Contract 215 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 19, 2016 (Request).

[1] Request of the United States Postal Service to Add Priority Mail Contract 218 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 19, 2016 (Request).

CFR part 3020, subpart B. Comments are due no later than June 1, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to serve as Public Representative in these dockets.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2016–135 and CP2016–172 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than June 1, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2016–12391 Filed 5–25–16; 8:45 am]

**BILLING CODE 7710–FW–P**

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## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2016–134 and CP2016–171; Order No. 3305]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 217 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 1, 2016.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

## I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 217 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

## II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–134 and CP2016–171 to consider the Request pertaining to the proposed Priority Mail Contract 217 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than June 1, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

## III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–134 and CP2016–171 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than June 1, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2016–12394 Filed 5–25–16; 8:45 am]

**BILLING CODE 7710–FW–P**

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## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2016–136 and CP2016–173; Order No. 3303]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 219 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 1, 2016.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

## I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 219 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

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[1] Request of the United States Postal Service to Add Priority Mail Contract 217 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 19, 2016 (Request).

[1] Request of the United States Postal Service to Add Priority Mail Contract 219 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 19, 2016 (Request).

### II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–136 and CP2016–173 to consider the Request pertaining to the proposed Priority Mail Contract 219 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than June 1, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to serve as Public Representative in these dockets.

### III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–136 and CP2016–173 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).
3. Comments are due no later than June 1, 2016.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2016–12392 Filed 5–25–16; 8:45 am]

**BILLING CODE 7710–FW–P**

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## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2016–133 and CP2016–170; Order No. 3304]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 216 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 1, 2016.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

### I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 216 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

### II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–133 and CP2016–170 to consider the Request pertaining to the proposed Priority Mail Contract 216 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than June 1, 2016. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

### III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2016–133 and CP2016–170 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).
3. Comments are due no later than June 1, 2016.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2016–12393 Filed 5–25–16; 8:45 am]

**BILLING CODE 7710–FW–P**

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[1] Request of the United States Postal Service to Add Priority Mail Contract 216 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 19, 2016 (Request).

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## POSTAL SERVICE

## Mail Classification Schedule Changes Pertaining to Priority Mail International Flat Rate Envelopes and Priority Mail International Small Flat Rate Boxes

**AGENCY:** Postal Service.

**ACTION:** Notice; modified effective date.

**SUMMARY:** The Postal Service has filed a notice with the Postal Regulatory Commission to establish a new implementation date for the changes to the Mail Classification Schedule provisions pertaining to Priority Mail International Flat Rate Envelopes and Priority Mail International Small Flat Rate Boxes.

**DATES:** *Effective date:* May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Christopher C. Meyerson, 202–268–7820.

**SUPPLEMENTARY INFORMATION:** On May 20, 2016, the United States Postal Service® filed with the Postal Regulatory Commission (Commission) a new implementation date of August 28, 2016, for pending changes to the Mail Classification Schedule related to Priority Mail International Flat Rate Envelopes and Priority Mail International Small Flat Rate Boxes. These changes were the subject of a previous notice in the **Federal Register** published by the Postal Service on April 14, 2016 (81 FR 22131). Documents pertinent to this request are available at *http://www.prc.gov,* Docket No. MC2016–118. The Governors' Decision in connection with the revised date is reprinted below.

**Stanley F. Mires,**
*Attorney, Federal Compliance.*

## Decision of the Governors of the United States Postal Service Concerning Revised Implementation Date of Mail Classification Schedule Changes for Priority Mail International Flat Rate Envelopes and Priority Mail International Small Flat Rate Boxes (Governors' Decision No. 16–2)

*May 12, 2016.*

### Statement of Explanation and Justification

Pursuant to section 404(b) and Chapter 36 of title 39, United States Code, Governors' Decision No. 16–1 established classification changes to Priority Mail International Flat Rate Envelopes (PMI FREs) and PMI Small Flat Rate Boxes (PMI SFRBs) to be effective June 3, 2016.

Due to operational considerations, I hereby revise the implementation date of the classification changes set forth in Governors' Decision No. 16–1 as indicated in our order below.

### Order

The changes in classification to PMI FREs and PMI SFRBs established in Governors' Decision No. 16–1 shall be effective on August 28, 2016.

By The Governors:
James H. Bilbray
Chairman, Temporary Emergency Committee of the Board of Governors

[FR Doc. 2016–12400 Filed 5–25–16; 8:45 am]

**BILLING CODE 7710–12–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77875; File No. SR–ISE–2016–08]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change Related to Market Wide Risk Protection

May 20, 2016.

### I. Introduction

On March 17, 2016, the International Securities Exchange, LLC (the "Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to introduce new activity-based risk protection functionality. The proposed rule change was published for comment in the **Federal Register** on April 6, 2016.[3] No comment letters were received in response to this proposal. This order approves the proposed rule change.

### II. Description of the Proposed Rule Change

The Exchange proposed to introduce two activity-based risk protection measures that will be mandatory for all members: (1) The "Order Entry Rate Protection," which prevents members from *entering* orders at a rate that exceeds predefined thresholds,[4] and (2) the "Order Execution Rate Protection," which prevents members from *executing* orders at a rate that exceeds their predefined risk settings (together, "Market Wide Risk Protection"). The Exchange will announce the implementation date of the proposed rule in a circular to be distributed to members prior to implementation.[5]

Pursuant to proposed Rule 714(d), "Market Wide Risk Protection," the Exchange's trading system (the "System") will maintain one or more counting programs on behalf of each member that will track the number of orders entered and the number of contracts traded on ISE or, if chosen by the member, across both ISE and its affiliate, ISE Gemini, LLC ("ISE Gemini").[6] Members may also use multiple counting programs to separate risk protections for different groups established within the member.[7] The counting programs will maintain separate counts, over rolling time periods specified by the member, for each count of: (1) The total number of orders entered in the regular order book; (2) the total number of orders entered in the complex order book with only options legs; (3) the total number of orders entered in the complex order book with both stock and options legs; (4) the total number of contracts traded in regular orders; and (5) the total number of contracts traded in complex orders with only options legs.[8]

According to the Exchange, members will have the discretion to establish the applicable time period for each of the counts maintained under the Market Wide Risk Protection, provided that the selected period is within minimum and maximum time parameters that will be established by the Exchange and announced via circular.[9] By contrast, the Exchange's proposal does not establish minimum or maximum values for any of the order entry or execution parameters described in (1) through (5) above. Nevertheless, the Exchange will establish default values[10] for the time period, order entry, and contracts traded parameters in a circular to be distributed to members. The Exchange represented that such default values will apply only to members that do not submit their own parameters for the Market Wide Risk Protection measures.[11]

The Exchange further proposed to use separate counts for regular orders, complex options orders,[12] and complex orders with a stock component,[13] as it believed that members may want to have different risk settings for these instruments. If the Market Wide Risk Protection is triggered based on any count, however, proposed Rule 714(d) states that the triggered action (discussed below) will be taken across the entire market—with respect to all products traded in both simple and complex instruments and across ISE (or, if set by the member, across ISE and ISE Gemini).[14]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77489 (Mar. 31, 2016), 81 FR 20004 ("Notice").

[4] The Exchange stated that it will initiate the Order Entry Rate Protection pre-open, but in a manner that allows members time to load their orders without inadvertently triggering the protection. The Exchange further noted that it will establish and communicate the precise initiation time via circular and prior to implementation. *See* Notice, *supra* note 3, at 20004 n.4.

[5] *See* Notice, *supra* note 3, at 20004.

[6] Members may set different risk parameters for their trading activity on each exchange, or they may set risk parameters that apply to their trading across both ISE and ISE Gemini. *See* proposed Rule 714(d).

[7] The Exchange stated that it will explain how members can go about setting up risk protections for different groups (*e.g.*, business units) in a circular issued to members. *See* Notice, *supra* note 3, at 20004–05 n.7.

[8] *See* proposed Rule 714(d). The Exchange clarified that a member's allowable order rate for the Order Entry Rate Protection will be comprised of parameters (1) to (3), while the allowable contract execution rate for the Order Execution Rate Protection will be comprised of parameters (4) and (5). The Exchange further explained that contracts executed on the agency and contra-side of a two-sided crossing order will be counted separately for the Order Execution Rate Protection. *See* Notice, *supra* note 3, at 20005.

[9] *Id.* The Exchange stated that it anticipated setting these minimum and maximum time parameters at one second and a full trading day, respectively. *See* Notice, *supra* note 3, at 20005 n.9.

[10] *See* proposed Rule 714(d); *see also* Notice, *supra* note 3, at 20005.

[11] *Id.*

[12] The Exchange explained that the contract execution count for complex orders with only options legs will be the sum of the number of contracts executed with respect to each leg. *Id.*

[13] Complex orders that contain a stock component will not be included as part of the complex order execution count. The Exchange stated its belief that the separate components of stock-option orders (*i.e.*, options components executed in contracts and stock components executed in shares) could not be combined in a way that would provide a meaningful measure of risk exposure. *See* Notice, *supra* note 3, at 20005 n.10.

Under proposed Rule 714(d), the System will trigger the Market Wide Risk Protection when it determines that the member has either (1) entered a number of orders exceeding its designated allowable order rate for the specified time period, or (2) executed a number of contracts exceeding its designated allowable contract execution rate for the specified time period.[15] If the member's thresholds have been exceeded in either simple or complex instruments, the Market Wide Risk Protection will be triggered and the System will automatically reject all subsequent incoming orders entered by the member on ISE or, if set by the member, across both ISE and ISE Gemini.[16] In addition, if the member has opted in to this functionality, the System will automatically cancel all of the member's existing orders.[17] The Market Wide Risk Protection will remain engaged until the member manually (*e.g.,* via email) notifies the Exchange to enable the acceptance of new orders.[18]

## III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[19] and rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.[21]

The Commission believes that the Exchange's proposed activity-based order protections will provide an additional tool to members to assist them in managing their risk exposure.[22] Specifically, the Commission believes that the Market Wide Risk Protection functionality may help members to mitigate the potential risks associated with entering and/or executing a level of orders that exceeds their risk management thresholds that may result from, for example, technology issues with electronic trading systems. Further, the Commission notes that other exchanges have established risk protection mechanisms for members and market makers that are similar in many respects to ISE's proposal.[23]

Proposed Rule 714(d) imposes a mandatory obligation on ISE members to utilize the Market Wide Risk Protection functionality. The Commission notes that, although the Exchange will establish minimum and maximum permissible parameters for the time period values, members will have discretion to set the threshold values for the order entry and order execution parameters.[24] If members do not independently set such parameters, they will be subject to the default parameters established by ISE.[25] While the Commission believes that the Exchange's proposed rule provides members flexibility to tailor the Market Wide Risk Protection to their respective risk management needs, the Commission reminds members to be mindful of their obligations to, among other things, seek best execution of orders they handle on an agency basis and consider their best execution obligations when establishing parameters for the Market Wide Risk Protection or utilizing the default parameters set by ISE.[26] For example, an abnormally low order entry parameter, set over an abnormally long specified time period should be carefully scrutinized, particularly if a member's order flow to ISE contains agency orders. To the extent that a member chooses sensitive parameters, a member should consider the effect of its chosen settings on its ability to receive a timely execution on marketable agency orders that it sends to ISE in various market conditions. The Commission cautions brokers considering their best execution obligations to be aware that the agency orders they represent may be rejected as a result of the Market Wide Risk Protection functionality.

As discussed above, ISE determined not to establish minimum and maximum permissible settings for the order entry and order execution parameters in its rule and indicated its intent to set a minimum and maximum for the time period parameters that provide broad discretion to members (*i.e.,* one second and a full trading day, respectively).[27] In light of these broad limits, the Commission expects ISE to periodically assess whether the Market Wide Risk Protection measures are operating in a manner that is consistent with the promotion of fair and orderly markets, including whether the default values and minimum and maximum permissible parameters for the applicable time period established by ISE continue to be appropriate and operate in a manner consistent with the Act and the rules thereunder.

Finally, the Commission believes that it is consistent with the Act for ISE to offer its Market Wide Risk Protection across both ISE and its affiliate, ISE Gemini, as such functionality could assist members in managing and reducing inadvertent exposure to excessive risk across both of these markets if the member desires to avail itself of that feature. Further, the Commission notes that it previously approved ISE's proposal to offer cross-market risk protections for market maker quotes, and approval of the cross-market application of the Market Wide Risk Protection functionality is consistent with that prior approval.[28]

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[14] Proposed Rule 714(d)(1); *see also* Notice, *supra* note 3, at 20005.

[15] *Id.; see also* proposed Rule 714(d)(1). Specifically, after a member enters or executes an order, the System will look back over the specified time period to determine whether the member has exceeded the relevant thresholds. *See* Notice, *supra* note 3, at 20005. In the Notice, the Exchange provided examples illustrating how the Market Wide Risk Protection functionality would work both for order entry and order execution protections. *See* Notice, *supra* note 3, at 20005–06.

[16] According to the Exchange, members that set different risk parameters for ISE and ISE Gemini will only have their orders rejected on the exchange whose threshold was exceeded. *See* Notice, *supra* note 3, at 20005 n.11.

[17] Proposed Rule 714(d)(2).

[18] Proposed Rule 714(d)(3). Members who have not opted to cancel all existing orders under proposed Rule 714(d)(2), however, will still be able to interact with their existing orders entered before the Market Wide Risk Protection was triggered. For instance, such members may send cancel order messages and/or receive trade executions for those orders. *Id.; see also* Notice, *supra* note 3, at 20005.

[19] 15 U.S.C. 78f(b).

[20] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] The Exchange currently provides members with limit order price protections that reject orders priced too far outside of the Exchange's best bid or offer. *See* ISE Rule 714(b)(2).

[23] *See, e.g.,* Miami International Securities Exchange, LLC Rule 519A ("Risk Protection Monitor"); BATS BZX Exchange, Inc. Rule 21.16 ("Risk Monitor Mechanism").

[24] The Exchange has represented that it anticipates that the minimum and maximum values for the applicable time period will be initially set at one second and a full trading day, respectively, which the Commission believes gives members wide latitude in establishing the applicable time periods. *See* Notice, *supra* note 3, at 20005 n.9.

[25] Proposed Rule 714(d).

[26] *See* Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290, at 48323 (Sept. 12, 1996) (Order Execution Obligations adopting release); *see also* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37537–8 (June 29, 2005) (Regulation NMS adopting release).

[27] *See* Notice, *supra* note 3, at 20005 n.9; *see also supra* note 24.

[28] *See* ISE Rule 804(g); *see also* Securities Exchange Act Release No. 73147 (Sept. 19, 2014), 79 FR 57639 (Sept. 25, 2014) (SR–ISE–2014–09) (approval order).

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–ISE–2016–08) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12384 Filed 5–25–16; 8:45 am]

**BILLING CODE 8011–01–P**

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[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77880; File No. SR–NYSE–2016–17]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Add Additional Order Types to the NYSE Bonds℠ Platform, Codify Functionality of Order Types Currently Available on NYSE Bonds, and Provide Greater Detail as to How an Indicative Match Price Is Established With Respect to Bond Auctions

May 20, 2016.

## I. Introduction

On March 16, 2016, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 86 to add additional order types to the NYSE Bonds℠ platform, to codify functionality of order types currently available on NYSE Bonds, and to amend the definition of Indicative Match Price (“IMP”) in current Rule 86(b)(2)(G) to provide greater detail as to how an IMP is established with respect to Bond Auctions. On March 29, 2016, the Exchange filed Amendment No. 1 to the proposal.[3] The proposed rule change was published for comment in the **Federal Register** on April 5, 2016.[4] No comment letters were received in response to the Notice. This order approves the proposed rule change, as modified by Amendment No. 1.

## II. Description of the Proposed Rule Change

The Exchange proposes to amend Rule 86 to add NYSE Bonds Fill-or-Kill Order, NYSE Bonds All-or-None Order and NYSE Bonds Minimum Quantity Order as new order types to the NYSE Bonds platform,[5] and to codify the operation of NYSE Bonds Good ‘Til Date Order and NYSE Bonds Timed Order that, according to the Exchange, are currently available on the NYSE Bonds platform.[6] The Exchange also proposes to amend the definition of IMP to provide greater detail as to how an IMP is established with respect to Bond Auctions.

The Exchange proposes to adopt the NYSE Bonds Fill-or-Kill Order (“NYSE Bonds FOK Order”), a NYSE Bonds Limit Order that would be executed immediately in its entirety at the best price available against a single contra party and, if not executed immediately in its entirety, would be cancelled.[7] A NYSE Bonds FOK Order would be eligible to participate in all trading sessions,[8] but could be executed only during the trading session in which the order is sent; otherwise the order would be rejected. A NYSE Bonds FOK Order cannot participate in either the Opening Bond Auction or the Core Bond Auction.[9]

The Exchange proposes to adopt the NYSE Bonds All-or-None Order (“NYSE Bonds AON Order”), a NYSE Bonds Limit Order (whose AON contingency would be displayed on the order book) that would be executed in its entirety against one or more contra party, or not at all.[10] If a NYSE Bonds AON Order is not executed in full, NYSE Bonds would post the order to the order book at its limit price until it is executed in full, or is cancelled. Incoming contra-side orders that cannot meet the AON quantity may trade at or bypass the price of the NYSE Bonds AON Order. A NYSE Bonds AON Order would not participate in either the Opening Bond Auction or the Core Bond Auction and the order is eligible for execution only during the trading session for which it is designated. A NYSE Bonds AON Order must be designated as “day,” “good ‘til cancelled,” or “good ‘til date.”[11]

The Exchange also proposes to adopt the NYSE Bonds Minimum Quantity Order, a NYSE Bonds Limit Order (whose minimum quantity contingency would be displayed on the order book) that would trade against one or more contra side orders, provided the order’s quantity requirement is met.[12] In the event there is not enough contra-side liquidity available at the time a NYSE Bonds Minimum Quantity Order is submitted, NYSE Bonds would post the order on the order book at its limit price until it is executed in full, or is cancelled. Incoming contra-side orders that cannot meet the minimum quantity may trade at or bypass the price of a NYSE Bonds Minimum Quantity Order. A NYSE Bonds Minimum Quantity Order would be rejected if the minimum quantity entered on the order is greater than the total number of bonds of the order. A NYSE Bonds Minimum Quantity Order may be partially executed as long as each partial execution is for the minimum number of bonds or greater. If a balance remains after one or more partial executions and such balance is for less than the minimum quantity specified on the order, such balance would be treated as a regular limit order and placed on the order book in price-time priority. A NYSE Bonds Minimum Quantity Order would not participate in either the Opening Bond Auction or the Core Bond Auction and the order would be eligible for execution only in the trading session during which it was sent. A

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposed changes to amend the proposed rule text of Rule 86(j)(A)(ii) in Exhibit 5 and the purpose section of each of the Form 19b–4 and Exhibit 1 to clarify the effective time used to determine the priority of Timed Orders. The Exchange also amended the purpose section of each of the Form 19b–4 and Exhibit 1 to add that all-or-none and minimum quantity contingencies are displayed.

[4] *See* Securities Exchange Act Release No. 77477 (March 30, 2016), 81 FR 19671 (“Notice”).

[5] NYSE Bonds is the Exchange’s electronic system for receiving, processing, executing and reporting bids, offers, and executions in bonds. *See* Notice, *supra* note 4, at 19672. NYSE Bonds currently allows Users to submit limit orders and reserve orders. Current Rule 86(b)(2)(M) defines a User as any Member or Member Organization, Sponsored Participant, or Authorized Trader that is authorized to access NYSE Bonds. A NYSE Bonds Limit Order and a NYSE Bonds Reserve Order are defined in current Rules 86(b)(2)(B) and (C), respectively. The Exchange is also proposing non-substantive organizational changes to renumber sections of Rule 86.

[6] *See* Notice, *supra* note 4, at 19672.

[7] A NYSE Bonds FOK Order cannot be a NYSE Bonds Reserve Order. *See* proposed Rule 86(b)(2)(B)(ii).

[8] The Opening Bond Trading Session commences with the Opening Bond Auction at 4:00 a.m. ET and concludes at 8:00 a.m. ET. *See* Rule 86(i)(1)(A). The Core Bond Trading Session commences with the Core Bond Auction at 8:00 a.m. ET and concludes at 5:00 p.m. ET. *See* Rule 86(i)(2)(A). The Late Bond Trading Session commences at 5:00 p.m. ET and concludes at 8:00 p.m. ET. *See* Rule 86(i)(3)(A).

[9] The Notice provides additional details and examples related to the NYSE Bonds FOK Order. *See* Notice, *supra* note 4, at 19672. *See also* proposed Rule 86(b)(2)(B)(vii).

[10] A NYSE Bonds AON Order cannot be a NYSE Bonds Reserve Order. *See* proposed Rule 86(b)(2)(B)(ii).

[11] The Notice provides additional details and examples related to the NYSE Bonds AON Order. *See* Notice, *supra* note 4, at 19672–73. *See also* proposed Rule 86(b)(2)(B)(viii).

[12] A NYSE Bonds Minimum Quantity Order cannot be a NYSE Bonds Reserve Order. *See* proposed Rule 86(b)(2)(B)(ii).

NYSE Bonds Minimum Quantity Order must be designated as "day," "good 'til cancelled," or "good 'til date." [13]

The Exchange proposes to codify the operation of the NYSE Bonds Good 'Til Date Order ("NYSE Bonds GTD Order"), a NYSE Bonds Limit Order or a NYSE Bonds Reserve Order, which if not executed or cancelled, would expire at the end of the Core Bond Trading Session on the date specified on the order. A NYSE Bonds GTD Order must include an Expire Date or be designated for the Core Bond Trading Session; otherwise, the order would be rejected. A NYSE Bonds GTD Order can participate in the Core Bond Auction and the Core Bond Trading Session only. A NYSE Bonds GTD Order would participate in the Core Bond Auction if it is entered before commencement of the Core Bond Auction, and if not executed in the Core Bond Auction, would remain live on NYSE Bonds and would be eligible for execution in the Core Bond Trading Session, unless the order is cancelled. A NYSE Bonds GTD Order entered after commencement of the Core Bond Auction would participate in the Core Bond Trading Session, unless the order is cancelled. A NYSE Bonds GTD Order can participate only in the Core Bond Trading Session, and such order designated for any other trading session would be rejected. A NYSE Bonds GTD Order that is not executed or cancelled in full at the end of the trading day would be placed on the order book for the following day in price-time priority for participation in the Core Bond Trading Session after the end of the Core Bond Auction.[14]

The Exchange proposes to codify the operation of the NYSE Bonds Timed Order, a NYSE Bonds Limit Order or a NYSE Bonds Reserve Order that remains in effect for a period of time specified on the order (*i.e.*, Effective Time and Expire Time) for the day on which the order is entered until the order is executed or cancelled. A NYSE Bonds Timed Order would be accepted, and may be cancelled, during all trading sessions, provided that the order is submitted during the trading session in which it is to become effective. A NYSE Bonds Timed Order would participate in the Core Bond Auction and Core Bond Trading Session if the order is entered before commencement of the Core Bond Auction, and if the order is not executed in the Core Bond Auction, or not cancelled, it would be eligible for execution in the Core Bond Trading Session. A NYSE Bonds Timed Order must include an Effective Time, an Expire Time, or a designated trading session; otherwise, the order would be rejected.

A NYSE Bonds Timed Order submitted with an Effective Time alone becomes effective at the Effective Time and if not executed, the order would be cancelled at the end of the Late Bond Trading Session. A NYSE Bonds Timed Order submitted with an Expire Time alone becomes effective at the time it is sent to the Exchange and if not executed, the order would be cancelled at the Expire Time designated on the order. A NYSE Bonds Timed Order submitted with a designated trading session alone or with a designated trading session and either an Effective Time or an Expire Time would become effective at the time the designated trading session begins and if not executed, the order would be cancelled at the end of the designated trading session.[15] NYSE Bonds would disregard the Effective Time or Expire Time submitted with a NYSE Bonds Timed Order that is designated for a specific trading session. Additionally, a NYSE Bonds Timed Order submitted with a time in force of Day during a trading session without an Effective Time, an Expire Time, or a designated trading session would be treated as a Day limit order and, if not executed, would be cancelled at the end of the Core Bond Trading Session.[16]

Finally, the Exchange proposes to amend the definition of IMP in current Rule 86(b)(2)(G) to provide greater detail as to how an IMP is established with respect to Bond Auctions. Specifically, the Exchange proposes to define the IMP in a particular bond as a single price at which the maximum number of bonds is executable. If there are two or more prices at which the maximum number of bonds is executable, the IMP would be the price that is closest to the Reference Price provided that the IMP cannot be lower (higher) than any unmatched top of book order to buy (sell) that was eligible to participate in an auction at the IMP. For the Opening Bond Auction, the Reference Price is the closing price in a bond on the previous trading day or if the bond did not trade on the previous trading day, the closing price on the last day that the bond traded.[17] For the Core Bond Auction and the Bond Halt Auction, the Reference Price is the last price of a bond on the trading day prior to the applicable auction, and if none, the previous trading day's closing price, and if none, the closing price on the last day that the bond traded. If orders to buy and orders to sell are not marketable (*i.e.*, the price of a bond order to buy is not equal to or greater than the price of a bond order to sell), then the IMP would be determined by the side and volume at the top of book, with the price of the side with the greater volume establishing the IMP. Current Rules 86(l)(3)(A) and 86(n)(2)(E) provide that a Bond Auction or a Bond Halt Auction, respectively, would not occur in the event of a failure to establish an IMP. The Exchange proposes to amend these rules to provide that, for non-marketable buy and sell orders entered in NYSE Bonds where the size of the best bid and best offer are the same, an IMP would not be established and a Bond Auction or Bond Halt Auction would not occur.[18]

In addition to adding order types to the NYSE Bonds platform and codifying functionality of order types currently available on NYSE Bonds, the Exchange also proposes to amend other parts of Rule 86 that are impacted by this proposed rule change. Rule 86(h) currently states that orders can only be designated for Bond Trading Sessions and cannot be designated for participation in Bond Auctions. The rule further states that participation in Bond Auctions is automatic if an order is designated for participation in a particular Bond trading Session and is entered prior to the commencement of the related Bond Auction. Given that not all of the new order types are eligible to participate in Bond Auctions, the Exchange proposes to amend the current rule to clarify that participation in Bond Auctions is not automatic if an order is designated for participation in a particular Bond Trading Session.[19]

Additionally, Rule 86(j) currently states that buy and sell orders in NYSE Bonds are displayed, matched and executed according to price, with the highest bid price and the lowest offer price receiving highest priority and, within each price, according to the time of order entry. For Timed Orders, priority within each price is determined based on the effective time of the order, as provided in proposed Rule 86(b)(2)(B)(vi)(3)(a)–(c). Timed Orders submitted with an Effective Time become effective at the time designated on the order (*i.e.,* at the Effective Time), whereas Timed Orders submitted with an Expire Time become effective at the time such order is submitted. Additionally, Timed Orders submitted with a designated trading session alone or with a designated trading session and either an Effective Time or an Expire Time become effective at the time the designated trading session begins, whereas Timed Orders submitted during a designated trading session become effective at the time such order is received. The Exchange proposes to reflect these differences with an amendment to Rule 86(j)(A)(ii).[20]

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[13] The Notice provides additional details and examples related to the NYSE Bonds Minimum Quantity Order. *See* Notice, *supra* note 4, at 19673–74. *See also* proposed Rule 86(b)(2)(B)(ix).

[14] The Notice provides additional details and examples related to the NYSE Bonds GTD Order. *See* Notice, *supra* note 4, at 19674–75. *See also* proposed Rule 86(b)(2)(B)(v).

[15] A NYSE Bonds Timed Order submitted during a designated trading session becomes effective at the time the order is received and, if not executed, would be cancelled at the end of such designated trading session. *See* Notice, *supra* note 4, at 19675 n.18.

[16] The Notice provides additional details and examples related to the NYSE Bonds Timed Order. *See* Notice, *supra* note 4, at 19675–76. *See also* proposed Rule 86(b)(2)(B)(vi).

[17] The Exchange proposes to delete the words "the price that is closest to" from the current rule to more precisely reflect the price that would be used to determine the Reference Price on the last day that a bond traded. *See* proposed Rule 86(b)(2)(D)(i)(a).

[18] The Notice provides additional details and examples related to the calculation of the IMP. *See* Notice, *supra* note 4, at 19676–77. *See also* proposed Rule 86(b)(2)(D).

[19] *See* Notice, *supra* note 4, at 19677.

Finally, the Exchange proposes to make non-substantive organizational changes to the rule text in order to make the rule easier to read and understand. Specifically, the Exchange is proposing to renumber each of paragraphs (C), (D), and (E) to (B)(ii), (B)(iii), and (B)(iv) and to renumber each of paragraphs (F) through (O) to (C) through (K).

## III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that the Exchange believes that the proposed rule change would protect investors and remove impediments to, and perfect the mechanisms of, a free and open market and a national market system by offering its Users additional order types and therefore affording them greater opportunities to execute their bond orders on the Exchange.[23] The Exchange further states that its proposal to adopt new order types on NYSE Bonds, including All-or-None, Fill-or-Kill, and Minimum Quantity orders, is consistent with order types available on other ATSs and exchanges.[24] The Commission notes that, according to the Exchange, the proposal to codify Good 'Til Date Orders and Timed Orders does not add any new functionality but instead provides additional clarity and transparency regarding current functionality offered by the Exchange.[25] Finally, the Commission notes that the Exchange's proposal relating to the calculation of the IMP is intended to provide additional detail, clarity, and transparency to the rule.[26]

The Commission believes that the proposed rules to adopt new order types on NYSE Bonds would provide Users with additional options for trading in fixed income securities on the Exchange. Based on the Exchange's representations, the Commission believes that the proposed rules regarding Good 'Til Date and Timed Orders do not raise any novel regulatory considerations and should provide greater specificity, clarity, and transparency with respect to the functionality available on the Exchange. The Commission similarly believes that the proposal relating to the IMP calculation and the organizational changes to the rule text should provide additional clarity and transparency to the Exchange's rules. For these reasons, the Commission believes that the proposed rule change is consistent with the Act.

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NYSE–2016–17), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12388 Filed 5–25–16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77881; File No. SR–ISEGemini–2016–03]**

## Self-Regulatory Organizations; ISE Gemini, LLC; Order Approving Proposed Rule Change Related to Market Wide Risk Protection

May 20, 2016.

## I. Introduction

On March 17, 2016, ISE Gemini, LLC (the "Exchange" or "ISE Gemini") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to introduce new activity-based risk protection functionality. The proposed rule change was published for comment in the **Federal Register** on April 6, 2016.[3] No comment letters were received in response to this proposal. This order approves the proposed rule change.

## II. Description of the Proposed Rule Change

The Exchange proposed to introduce two activity-based risk protection measures that will be mandatory for all members: (1) The "Order Entry Rate Protection," which prevents members from *entering* orders at a rate that exceeds predefined thresholds,[4] and (2) the "Order Execution Rate Protection," which prevents members from *executing* orders at a rate that exceeds their predefined risk settings (together, "Market Wide Risk Protection"). The Exchange will announce the implementation date of the proposed rule in a circular to be distributed to members prior to implementation.[5]

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[20] *See id.*

[21] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] *See* Notice, *supra* note 4, at 19677.

[24] *See id.* at 19672 & n.13, 19677. The Exchange states that, because fixed income securities are not subject to Regulation NMS, it proposes to display the All-or-None and Minimum Quantity and permit executions that bypass an All-or-None order or Minimum Quantity order if the terms of such orders cannot be met, unlike similar All-or-None and Minimum Quantity order types on equity exchanges. *See id.* at 19677.

[25] *See* Notice, *supra* note 4, at 19677.

[26] *See id.* at 19672, 77.

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77488 (Mar. 31, 2016), 81 FR 20021 ("Notice").

[4] The Exchange stated that it will initiate the Order Entry Rate Protection pre-open, but in a manner that allows members time to load their orders without inadvertently triggering the protection. The Exchange further noted that it will establish and communicate the precise initiation time via circular and prior to implementation. *See* Notice, *supra* note 3, at 20022 n.4.

Pursuant to proposed Rule 714(d), "Market Wide Risk Protection," the Exchange's trading system (the "System") will maintain one or more counting programs on behalf of each member that will track the number of orders entered and the number of contracts traded on ISE Gemini or, if chosen by the member, across both ISE Gemini and its affiliate, International Securities Exchange, LLC ("ISE").[6] Members may also use multiple counting programs to separate risk protections for different groups established within the member.[7] The counting programs will maintain separate counts, over rolling time periods specified by the member, for each count of: (1) The total number of orders entered; and (2) the total number of contracts traded.[8]

According to the Exchange, members will have the discretion to establish the applicable time period for each of the counts maintained under the Market Wide Risk Protection, provided that the selected period is within minimum and maximum time parameters that will be established by the Exchange and announced via circular.[9] By contrast, the Exchange's proposal does not establish minimum or maximum values for the order entry or execution parameters described in (1) and (2) above. Nevertheless, the Exchange will establish default values[10] for the time period, order entry, and contracts traded parameters in a circular to be distributed to members. The Exchange represented that such default values will apply only to members that do not submit their own parameters for the Market Wide Risk Protection measures.[11]

Under proposed Rule 714(d), the System will trigger the Market Wide Risk Protection when it determines that the member has either (1) entered a number of orders exceeding its designated allowable order rate for the specified time period, or (2) executed a number of contracts exceeding its designated allowable contract execution rate for the specified time period.[12] If the member's thresholds have been exceeded, the Market Wide Risk Protection will be triggered and the System will automatically reject all subsequent incoming orders entered by the member on ISE Gemini or, if set by the member, across both ISE Gemini and ISE.[13] In addition, if the member has opted in to this functionality, the System will automatically cancel all of the member's existing orders.[14] The Market Wide Risk Protection will remain engaged until the member manually (*e.g.*, via email) notifies the Exchange to enable the acceptance of new orders.[15]

## III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[16] and rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.[18]

The Commission believes that the Exchange's proposed activity-based order protections will provide an additional tool to members to assist them in managing their risk exposure.[19] Specifically, the Commission believes that the Market Wide Risk Protection functionality may help members to mitigate the potential risks associated with entering and/or executing a level of orders that exceeds their risk management thresholds that may result from, for example, technology issues with electronic trading systems. Further, the Commission notes that other exchanges have established risk protection mechanisms for members and market makers that are similar in many respects to ISE Gemini's proposal.[20]

Proposed Rule 714(d) imposes a mandatory obligation on ISE Gemini members to utilize the Market Wide Risk Protection functionality. The Commission notes that, although the Exchange will establish minimum and maximum permissible parameters for the time period values, members will have discretion to set the threshold values for the order entry and order execution parameters.[21] If members do not independently set such parameters, they will be subject to the default parameters established by ISE Gemini.[22] While the Commission believes that the Exchange's proposed rule provides members flexibility to tailor the Market Wide Risk Protection to their respective risk management needs, the Commission reminds members to be mindful of their obligations to, among other things, seek best execution of orders they handle on an agency basis and consider their best execution obligations when establishing parameters for the Market Wide Risk Protection or utilizing the default parameters set by ISE.[23] For example, an abnormally low order entry parameter, set over an abnormally long specified time period should be carefully scrutinized, particularly if a member's order flow to ISE Gemini contains agency orders. To the extent that a member chooses sensitive parameters, a member should consider the effect of its chosen settings on its ability to receive a timely execution on marketable agency orders that it sends to ISE Gemini in various market conditions. The Commission cautions brokers considering their best execution obligations to be aware that the agency orders they represent may be rejected as a result of the Market Wide Risk Protection functionality.

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[5] *See* Notice, *supra* note 3, at 20022.

[6] Members may set different risk parameters for their trading activity on each exchange, or they may set risk parameters that apply to their trading across both ISE Gemini and ISE. *See* proposed Rule 714(d).

[7] The Exchange stated that it will explain how members can go about setting up risk protections for different groups (*e.g.*, business units) in a circular issued to members. *See* Notice, *supra* note 3, at 20022 n.7.

[8] *See* proposed Rule 714(d). The Exchange clarified that a member's allowable order rate for the Order Entry Rate Protection will be comprised of parameter (1), while the allowable contract execution rate for the Order Execution Rate Protection will be comprised of parameter (2). The Exchange further explained that contracts executed on the agency and contra-side of a two-sided crossing order will be counted separately for the Order Execution Rate Protection. *See* Notice, *supra* note 3, at 20022.

[9] *Id.* The Exchange stated that it anticipated setting these minimum and maximum time parameters at one second and a full trading day, respectively. *See* Notice, *supra* note 3, at 20022 n.9.

[10] *See* proposed Rule 714(d); *see also* Notice, *supra* note 3, at 20022.

[11] *Id.*

[12] *Id.; see also* proposed Rule 714(d)(1). Specifically, after a member enters or executes an order, the System will look back over the specified time period to determine whether the member has exceeded the relevant thresholds. *See* Notice, *supra* note 3, at 20022. In the Notice, the Exchange provided examples illustrating how the Market Wide Risk Protection functionality would work both for order entry and order execution protections. *See* Notice, *supra* note 3, at 20022–23.

[13] According to the Exchange, members that set different risk parameters for ISE Gemini and ISE will only have their orders rejected on the exchange whose threshold was exceeded. *See* Notice, *supra* note 3, at 20022 n.10.

[14] Proposed Rule 714(d)(2).

[15] Proposed Rule 714(d)(3). Members who have not opted to cancel all existing orders under proposed Rule 714(d)(2), however, will still be able to interact with their existing orders entered before the Market Wide Risk Protection was triggered. For instance, such members may send cancel order messages and/or receive trade executions for those orders. *Id.; see also* Notice, *supra* note 3, at 20022.

[16] 15 U.S.C. 78f(b).

[17] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] The Exchange currently provides members with limit order price protections that reject orders priced too far outside of the Exchange's best bid or offer. *See* ISE Gemini Rule 714(b)(2).

[20] *See, e.g.*, Miami International Securities Exchange, LLC Rule 519A ("Risk Protection Monitor"); BATS BZX Exchange, Inc. Rule 21.16 ("Risk Monitor Mechanism").

[21] The Exchange has represented that it anticipates that the minimum and maximum values for the applicable time period will be initially set at one second and a full trading day, respectively, which the Commission believes gives members wide latitude in establishing the applicable time periods. *See* Notice, *supra* note 3, at 20022 n.9.

[22] Proposed Rule 714(d).

As discussed above, ISE Gemini determined not to establish minimum and maximum permissible settings for the order entry and order execution parameters in its rule and indicated its intent to set a minimum and maximum for the time period parameters that provide broad discretion to members (*i.e.*, one second and a full trading day, respectively).[24] In light of these broad limits, the Commission expects ISE Gemini to periodically assess whether the Market Wide Risk Protection measures are operating in a manner that is consistent with the promotion of fair and orderly markets, including whether the default values and minimum and maximum permissible parameters for the applicable time period established by ISE Gemini continue to be appropriate and operate in a manner consistent with the Act and the rules thereunder.

Finally, the Commission believes that it is consistent with the Act for ISE Gemini to offer its Market Wide Risk Protection across both ISE Gemini and its affiliate, ISE, as such functionality could assist members in managing and reducing inadvertent exposure to excessive risk across both of these markets if the member desires to avail itself of that feature. Further, the Commission notes that it previously approved ISE Gemini's proposal to offer cross-market risk protections for market maker quotes, and approval of the cross-market application of the Market Wide Risk Protection functionality is consistent with that prior approval.[25]

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–ISEGemini–2016–03) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12389 Filed 5–25–16; 8:45 am]

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[23] *See* Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290, at 48323 (Sept. 12, 1996) (Order Execution Obligations adopting release); *see also* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37537–8 (June 29, 2005) (Regulation NMS adopting release).

[24] *See* Notice, *supra* note 3, at 20022 n.9; *see also supra* note 21.

[25] *See* ISE Gemini Rule 804(g); *see also* Securities Exchange Act Release No. 73148 (Sept. 19, 2014), 79 FR 57626 (Sept. 25, 2014) (SR–ISEGemini-2014–09) (approval order).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77871; File No. SR–BATS–2015–100]**

## Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendments Nos. 1, 3, and 4 Thereto, To Amend BATS Rule 14.11(i) To Adopt Generic Listing Standards for Managed Fund Shares

May 20, 2016.

On November 18, 2015, BATS Exchange, Inc. (now known as Bats BZX Exchange, Inc., "Exchange")[1] filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend BATS Rule 14.11(i) by, among other things, adopting generic listing standards for Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on November 25, 2015.[4] On January 4, 2016, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On February 9, 2016, the Exchange filed Amendment No. 1 to the proposed rule change,[6] which replaced the originally filed proposed rule change in its entirety.[7] On February 11, 2016, the Exchange both filed and withdrew Amendment No. 2 to the proposed rule change. On February 11, 2016, the Exchange filed Amendment No. 3 to the proposed rule change.[8] On February 17, 2016, the Exchange filed Amendment No. 4 to the proposed rule change.[9] On February 22, 2016, the Commission issued notice of filing of Amendment Nos. 1, 3, and 4 to the proposed rule change and instituted proceedings under Section 19(b)(2)(B) of the Act[10] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment Nos. 1, 3, and 4 thereto.[11] In the Order Instituting Proceedings, the Commission solicited comments to specified matters related to the proposal.[12] The Commission has not received any comments on the proposed rule change.

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[1] In March 2016, BATS changed its name from "BATS Exchange, Inc." to "Bats BZX Exchange, Inc." *See* Securities Act Release No. 77307 (Mar. 7, 2016), 81 FR 12996 (Mar. 11, 2016) (SR–BATS–2016–25) (publishing notice of the name change to Bats BZX Exchange, Inc.).

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 76478 (Nov. 19, 2015), 80 FR 73841 ("Notice").

[5] *See* Securities Exchange Act Release No. 76820, 81 FR 989 (Jan. 8, 2016). The Commission designated February 23, 2016 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change. *See id.*

[6] Amendment No. 1: (1) Clarifies the proposed treatment of convertible securities under the proposed generic listing criteria; (2) modifies the proposed criterion regarding American Depositary Receipts ("ADRs") to provide that no more than 10% of the equity weight of the portfolio shall consist of non-exchange traded (rather than unsponsored) ADRs; (3) modifies the proposed portfolio limit on listed derivatives to require that at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement ("CSSA"); (4) provides that a portfolio's investments in listed and over-the-counter derivatives will be calculated for purposes the proposed limits on such holdings as the total absolute notional value of the derivatives; (5) makes certain other conforming and clarifying changes. The amendments to the proposed rule change are available at: *http://www.sec.gov/comments/sr-bats-2015-100/bats2015100.shtml.*

[7] *See* Amendment No. 1, *supra* note 6, at 4.

[8] Amendment No. 3 deletes from the proposal the following two sentences: (1) "Such limitation will not apply to listed swaps because swaps are listed on swap execution facilities ("SEFs"), the majority of which are not members of ISG." and (2) "Such limitation would not apply to listed swaps because swaps are listed on SEFs, the majority of which are not members of ISG." Amendment No. 3 also corrects an erroneous statement in Item 11 to indicate that an Exhibit 4 was included in Amendment No. 1.

[9] Amendment No. 4 deletes from the proposal the following sentence: "Thus, if the limitation applied to swaps, there would effectively be a cap of 10% of the portfolio invested in listed swaps." Amendment No. 4 also amends two representations as follows (*added* language in brackets): The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Managed Fund Shares [and their underlying components] with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded[, or with which the Exchange has in place a CSSA.] In addition, the Exchange or FINRA[,] on behalf of the Exchange[,] may obtain information regarding trading in Managed Fund Shares [and their underlying components] from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded, or with which the Exchange has in place a CSSA."

Section 19(b)(2) of the Act[13] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on November 25, 2015.[14] The 180th day after publication of the notice of the filing of the proposed rule change in the **Federal Register** is May 23, 2016.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment Nos. 1, 3, and 4 thereto.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[15] designates July 22, 2016, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment Nos. 1, 3, and 4 thereto (File No. SR–BATS–2015–100).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12382 Filed 5–25–16; 8:45 am]

BILLING CODE 8011–01–P

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[10] 15 U.S.C. 78s(b)(2)(B).

[11] *See* Securities Exchange Act Release No. 77202, 81 FR 9889 (Feb. 26, 2016) ("Order Instituting Proceedings"). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public interest." *See id.*, 81 FR at 9897.

[12] *See id.*

[13] 15 U.S.C. 78s(b)(2).

[14] *See supra* note 4 and accompanying text.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(57).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77877; File No. SR–BOX–2016–22]**

## Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rule 12140 (Imposition of Fines for Minor Rule Violations) To Amend the Sanctions for Quotation Parameters and Permit the Aggregation of Violations for the Purpose of Determining What Is an Occurrence

May 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2016, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 12140 (Imposition of Fines for Minor Rule Violations) to amend the sanctions for Quotation Parameters and permit the aggregation of violations for the purpose of determining what is an occurrence. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend BOX Rule 12140 (Imposition of Fines for Minor Rule Violations) to amend the sanctions for Quotation Parameters (Rule 12140(d)(5)) and permit the aggregation of violations for the purpose of determining what is an occurrence.

The purpose of the proposed rule change is to amend the sanctions that relate to Rule 8040(a)(7) regarding spread parameters for Market Maker quotations under the Exchange's Minor Rule Violation Plan or ("MRVP"). BOX Rule 8040(a)(7)[3] governs quotation parameters which establish the maximum permissible width between the bid and offer in a particular series.[4] The Exchange believes the proposed rule changes [sic] will add clarity as to what is considered a violation with respect to these quotation parameters under the MRVP.

First, the Exchange proposes to amend the sanctions applicable to violations of Rule 8040(a)(7) pursuant to the Exchange's MRVP which are laid out in BOX Rule 12140(d)(5). The sanctions would now consist of Letters of Caution respecting the first three occurrences and three fines thereafter ($250, $500 and $1,000), before the seventh occurrence would result in referral to the Hearing Committee for disciplinary action. In addition, the fine schedule would be administered on a one year running calendar basis, such that violations within one year of the last occurrence would count as the next "occurrence". The Exchange then proposes to add language that will allow BOX to aggregate individual quotation violations and treat such violations as a single offense.

The Exchange believes that these changes are appropriate because quoting on the Exchange is entirely electronic. Specifically, firms rely on their quote technology and computer models to establish an option's price and generate the quote electronically to the Exchange. The Exchange believes when there is an electronic quoting error, it may affect every series the Participant is quoting on in that particular technology, generating potentially hundreds or thousands of instances of quote spread parameter violations within a short amount of time. Rather than fine the Participant for or submit each event to Formal Disciplinary Action for an isolated technological error, the proposed changes would allow the Exchange to treat an electronic quoting error as single occurrence by aggregating the violations.[5] The Exchange notes that due to the nature of quotation parameter violations, aggregation is a common practice in the options industry.[6] Under the proposed rule change a Market Maker on BOX would in most instances receive a Letter of Caution before being subject to a sanction. The Exchange believes this is appropriate because the relevant Letters of Caution or monetary fines should serve as a deterrent against future violations, while recognizing that a single programming error can have widespread effect. Further, the Exchange believes that sanctions on quotation parameter violations should not be considered [sic] excessively punitive; as this could encourage a Market Maker [sic] only meet its minimum quoting requirements, which would remove liquidity from the exchange.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange's MRVP consists of preset fines, pursuant to Rule 19d–1(c) under the Act 17 CFR 240.19d–1(c).

[4] *See* Rule 8040(a)(7). The Exchange sets the maximum width at no more than $5 between the bid and offer.

As with other violations covered under the Exchange's MRVP, the Exchange may elect to forgo the MRVP and enforce any egregious violation of its rules under the Exchange's formal disciplinary process.

The Exchange notes that the proposed rule change is substantially similar to the rules of the NASDAQ OMX PHLX, Inc. ("Phlx") and the sanctions that relate to the spread parameters for Market Maker quotations on PHLX.[7]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the Exchange believes that its proposal is consistent with Sections 6(b)(1) and (6) of the Act,[10] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing BOX Rule 12140 provides procedural rights to a person fined under the Exchange's MRVP to contest the fine and permits a hearing on the matter, the Exchange believes that the proposal is consistent with Sections 6(b)(7) and 6(d)(1) of the Act,[11] by providing a fair procedure for the disciplining of Participants and persons associated with Participants.

In requesting the proposed changes to the sanctions under BOX Rule 12140(d)(5), the Exchange in no way minimizes the importance of compliance with Exchange Rules and all other rules subject to the imposition of fines under the MRVP. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of large sanctions and requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires a formal disciplinary action.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed is similar to the rules of PHLX.[12] The Exchange believes that the proposals will provide Participants protection from minor rule violation sanctions that are a result of electronic quoting errors. The proposed rule change is meant to take into account the possibility of programming or technology errors that result in a Participant violating the quote parameters set out in the Rule 8040(a)(7). The proposed rule change will enable Participants to enter quotes without fear of hundreds or thousands of minor rule violations, which in turn will benefit investors through increased liquidity on the exchange. While the Exchange believes that the proposed Letters of Caution and subsequent fines should serve as a deterrent against future violations, the Exchange may determine whether a violation is not minor in nature and thereafter refer it to the Hearing Committee for disciplinary action.[13]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing.[16] Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[17] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange has stated that the proposed rule change is substantially similar to the rules of Phlx, in particular, the sanctions for violations of the spread parameters for Market Maker quotations. Waiver of the 30-day operative delay will allow BOX to aggregate violations of its spread parameter rule under its MRVP without delay. Furthermore, the Commission notes that the Exchange's MRVP and quote spread parameter rules are already in place; waiver will clarify the Exchange's expectations of its Participants. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[18]

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[5] The Exchange notes that there is very little advantage to a Market Maker quoting wide, when this happens they are no longer considered part of the marketplace and any incoming orders will go elsewhere.

[6] The Minor Rule Violation Plans at most options exchanges allow for aggregation of quotation parameter violations and EDGX recently filed to add this language as well. *See* Securities Exchange Act Release No. 77181 (February 19, 2016), 81 FR 9566 (February 25, 2016) (Notice of Filing and Immediate Effectiveness SR–EDGX–2016–03).

[7] *See* PHLX Rule 1014(c)(i)(A) [sic] and Securities Exchange Act Release No. 62147 (May 21, 2010), 75 FR 29792 (Order Approving SR–Phlx–2010–43).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(1) and (6).

[11] 15 U.S.C. 78f(b)(7) and (d)(1).

[12] *See supra*, note 7.

[13] *See* Rule 12140(a).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] *Id.*

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2016–22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2016–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–22, and should be submitted on or before June 16, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12385 Filed 5–25–16; 8:45 am]

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[18] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77872; File No. SR–NYSEArca–2015–110]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 4 Thereto, Amending NYSE Arca Equities Rule 8.600 To Adopt Generic Listing Standards for Managed Fund Shares

May 20, 2016.

On November 6, 2015, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Arca Equities Rule 8.600 and to adopt generic listing standards for Managed Fund Shares.[3] The proposed rule change was published for comment in the **Federal Register** on November 27, 2015.[4]

On November 23, 2015, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the original proposal in its entirety. On January 4, 2016, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] On January 21, 2016, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change.[7] The proposed rule change, as modified by Amendment No. 2 thereto, was published for comment in the **Federal Register** on February 1, 2016.[8] On February 11, 2016, the Exchange filed Amendment No. 3 to the proposed rule change.[9] On February 16, 2016, the Exchange filed Amendment No. 4 to the proposed rule change.[10]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NYSE Arca Equities Rule 8.600(c)(1) (defining Managed Fund Shares).

[4] *See* Securities Exchange Act Release No. 76486 (Nov. 20, 2015), 80 FR 74169 ("Notice").

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 76819, 81 FR 987 (Jan. 8, 2016). The Commission designated February 25, 2016 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change. *See id.*

[7] In Amendment No. 2 to the proposed rule change, the Exchange added provisions to the proposed generic listing criteria relating to non-U.S. Component Stocks, convertible securities, and listed swaps, among other changes. Amendment No. 2, which amended and replaced the original proposal in its entirety, is available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-3.pdf.*

[8] *See* Securities Exchange Act Release No. 76974 (Jan. 26, 2016), 81 FR 5149.

[9] In Amendment No. 3 to the proposed rule change, the Exchange (a) revised the provisions relating to convertible securities, (b) clarified the limitations on non-exchange-traded American Depositary Receipts, (c) eliminated redundant provisions relating to limitations on leveraged and inverse-leveraged Derivative Securities Products, (d) revised the provision relating to limitations on listed derivatives, (e) clarified that, for purposes of the limitations relating to listed and over-the-counter derivatives, a portfolio's investment in listed and over-the-counter derivatives will be calculated as the total absolute notional value of these derivatives, and (f) provided additional information regarding the statutory basis of the proposal. Amendment No. 3, which amended and replaced the proposed rule change, as modified by Amendment No. 2 thereto, in its entirety, is available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-4.pdf.*

[10] In Amendment No. 4 to the proposed rule change, the Exchange (a) modified the proposed generic listing rules to require compliance of the

On February 22, 2016, the Commission issued notice of filing of Amendment No. 4 to the proposed rule change and instituted proceedings under Section 19(b)(2)(B) of the Act[11] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 4 thereto.[12] In the Order Instituting Proceedings, the Commission solicited comments to specified matters related to the proposal.[13] The Commission has received one comment letter on the proposal.[14]

Section 19(b)(2) of the Act[15] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on November 27, 2015.[16] The 180th day after publication of the notice of the filing of the proposed rule change in the **Federal Register** is May 25, 2016.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 4 thereto.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[17] designates July 22, 2016, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment No. 4 thereto (File No. SR–NYSEArca–2015–110).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12383 Filed 5–25–16; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release Nos. 33–10079; 34–77857; File No. 265–28]**

## Investor Advisory Committee Meeting

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of telephonic meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

**SUMMARY:** The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a telephonic meeting on Tuesday, June 7, 2016. The meeting will begin at 11:00 a.m. (ET) and conclude at 12:30 p.m. and will be open to the public *via* telephone at 1–888–240–3210, participant code 7250901. The public is invited to submit written statements to the Committee.

**DATES:** Written statements should be received on or before June 7, 2016.

**ADDRESSES:** Written statements may be submitted by any of the following methods:

*Electronic Statements*

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

*Paper Statements*

- Send paper statements to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Marc Oorloff Sharma, Senior Special Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public *via* telephone. Persons needing special accommodations to take part because of a disability should notify the contact person listed in **FOR FURTHER INFORMATION CONTACT.**

The agenda for the meeting includes: A discussion of Market Structure subcommittee recommendations to enhance information for bond market investors; and a discussion regarding the Commission's concept release on business and financial disclosure required by Regulation S–K (which may include a recommendation of the Investor as Owner subcommittee).

Dated: May 19, 2016.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–12231 Filed 5–25–16; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77879; File No. SR–Nasdaq–2016–013]**

## Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Require Listed Companies to Publicly Disclose Compensation or Other Payments by Third Parties to Board of Director's Members or Nominees

May 20, 2016.

On March 15, 2016, The Nasdaq Stock Market LLC ("Exchange") filed with the

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standards applicable to underlying equity securities, fixed income securities, and over-the-counter derivatives on an initial and continuing basis; and (b) clarified that the limitations on listed derivatives would apply to all listed derivatives, including listed swaps. Amendment No. 4, which amended and replaced the proposed rule change, as modified by Amendment No. 3 thereto, in its entirety, is available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-5.pdf.*

[11] 15 U.S.C. 78s(b)(2)(B).

[12] *See* Securities Exchange Act Release No. 77203, 81 FR 9900 (Feb. 26, 2016) ("Order Instituting Proceedings"). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public interest." *See id.*, 81 FR at 9906.

[13] *See id.*, 81 FR at 9908–09.

[14] *See* Letter from Rob Ivanoff to the Commission dated Nov. 22, 2015 (commenting that the format of the Exchange's proposed rule change was unclear and difficult to read, and suggesting a new format that would be easier to understand). All comments on the proposed rule change are available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-1.htm.*

[15] 15 U.S.C. 78s(b)(2).

[16] *See supra* note 4 and accompanying text.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(57).

Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to requiring listed companies to publicly disclose compensation or other payments by third parties to board of director's members or nominees. The proposed rule change was published for comment in the **Federal Register** on April 5, 2016.[3] The Commission has received five comments on the proposal by four commenters.[4]

Section 19(b)(2) of the Act[5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is May 20, 2016. The Commission is extending this 45-day time period for Commission action on the proposed rule change.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] and for the reason noted above, designates July 4, 2016, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–Nasdaq–2016–013).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12387 Filed 5–25–16; 8:45 am]

BILLING CODE 8011–01–P

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77481 (Mar. 30, 2016), 81 FR 19678.

[4] *See* Letters to Brent J. Fields, Secretary, Commission, from Andrew A. Schwartz, Associate Professor of Law, University of Colorado Law School, Boulder, Colorado dated April 25 and 26, 2016; Bobby Franklin, President & CEO, National Venture Capital Association dated April 26, 2016; John Hayes, Chair, Corporate Governance Committee, Business Roundtable dated April 26, 2016; and John Endean, President, American Business Conference dated April 28, 2016.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77878; File No. SR–NASDAQ–2016–070]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options Pricing at Chapter XV, Section 2

May 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on May 10, 2016, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled "Options Pricing," at Section 2, which governs pricing for Exchange members using the NASDAQ Options Market ("NOM"), the Exchange's facility for executing and routing standardized equity and index options.[3] The Exchange proposes to amend certain Penny Pilot Options[4] pricing.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

#### 1. Purpose

The Exchange proposes certain amendments to the NOM transaction fees set forth at Chapter XV, Section 2, for executing and routing standardized equity and index Penny Pilot Options. Specifically, the Exchange proposes to reduce the fee for Customer[5] or Professional[6] that removes liquidity in SPY Options.[7] The proposed change is discussed below.

The Exchange currently assesses Customer, Professional, Firm,[8] Non-NOM Market Maker,[9] NOM Market

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References in this proposal to Chapter and Series refer to NOM rules, unless otherwise indicated.

[4] The Penny Pilot was established in March 2008 and was last extended in 2015. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2016). All Penny Pilot Options listed on the Exchange can be found at *http://www.nasdaqtrader.com/Micro.aspx?id=phlx.*

[5] The term "Customer" or ("C") applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Chapter I, Section 1(a)(48)).

[6] The term "Professional" or ("P") means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[7] Options overlying Standard and Poor's Depositary Receipts/SPDRs ("SPY") are based on the SPDR exchange-traded fund ("ETF"), which is designed to track the performance of the S&P 500 Index.

[8] The term "Firm" or ("F") applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[9] The term "Non-NOM Market Maker" or ("O") is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

Maker,[10] and Broker-Dealer [11] a $0.50 per contract Fee for Removing Liquidity in Penny Pilot Options.[12] The Exchange proposes a slightly reduced Fee for Removing Customer and Professional Liquidity in SPY Options, which are the largest volume Penny Pilot Options traded on the Exchange. Excluding the proposed change in SPY Options, the Penny Pilot Options Fee for Removing Liquidity, as also the Penny Pilot Options Rebate to Add Liquidity does not change.

Change 1—Penny Pilot Options: Change Fee for Removing Customer and Professional Liquidity in SPY Options

The Exchange proposes to modify the Penny Pilot Options fees and rebates schedule (per executed contract) to slightly reduce the fee when a Customer or Professional removes liquidity in SPY Options. Specifically, the Exchange proposes to make note 3 applicable to Customer and Professional Penny Pilot Options in Chapter XV, Section 2(1), and to state that "A Customer or Professional that removes liquidity in SPY Options will be assessed a fee of $0.47 per contract." Currently, the fee for removing Penny Pilot Options liquidity, which includes SPY Options, is $0.50 per contract.

The Exchange is proposing to decrease the noted SPY Option Fee for Removing Liquidity at this time because it believes that the proposed decrease will incentivize Participants to send Customer and Professional Order flow to the Exchange. This enables the Exchange to remain competitive with other options exchanges.

The Exchange is also making two housekeeping changes in NOM Chapter XV, Section 2(1). First, the Exchange is correcting a typo in Penny Pilot Options Rebate to Add Liquidity and indicating that note "d" is applicable to Professional just as it is to Customer.[13]

Second, the Exchange is adding "unless otherwise stated" in note ". . ." for better readability and clarity. The sentence as modified will read: "To determine the applicable percentage of total industry customer equity and ETF option average daily volume, unless otherwise stated, the Participant's Penny Pilot and Non-Penny Pilot Customer and/or Professional volume that adds liquidity will be included."

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act,[15] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." [16]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [17] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[18] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost." [19]

Further, "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ." [20] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory for the following reasons.

Change 1—Penny Pilot Options: Change Fee for Removing Customer and Professional Liquidity in SPY Options

The Exchange proposes to modify the Penny Pilot Options fees and rebates schedule (per executed contract) to slightly reduce the fee when a Customer or Professional removes liquidity in SPY Options. Specifically, the Exchange proposes to make note 3 applicable to Customer and Professional Penny Pilot Options in Chapter XV, Section 2(1), and to state that "A Customer or Professional that removes liquidity in SPY Options will be assessed a fee of $0.47 per contract." Currently, the fee is $0.50 per contract.

The Exchange is proposing to decrease the noted SPY Option-related fee at this time because it believes that the proposed decrease will incentivize Participants to send Customer and Professional Order flow to the Exchange. This enables the Exchange to remain competitive with other options exchanges.

The Exchange's proposal to reduce the noted SPY Option Fee for Removing Liquidity is reasonable because NOM Participants will continue to be incentivized, even more so with the proposed fee reduction, to send order flow to NOM.

The proposed rule change is reasonable because it continues to encourage market participant behavior through the fees and rebates system, which is an accepted methodology among options exchanges.[21] It is reasonable to incentivize bringing flow to the Exchange by offering reduced fees.

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[10] The term "NOM Market Maker" or ("M") is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

[11] The term "Broker-Dealer" or ("B") applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[12] Customer, Professional, Firm, Non-NOM Market Maker, NOM Market Maker, and Broker-Dealer are NOM Participants. The term "Participant" or "Options Participant" means a firm, or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of participating in options trading on NOM as a "Nasdaq Options Order Entry Firm" or "Nasdaq Options Market Maker".

[13] *See* Securities Exchange Act Release No. 77661 (April 20, 2016), 81 FR 24668 (April 26, 2016) (SR–NASDAQ–2016–055) (notice of filing and immediate effectiveness), wherein the Exchange proposed to make note "d" applicable to Professional just as it is to Customer.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4), (5).

[16] Securities Exchange Act Release No. 51808 (June 29, 2005), 70 FR 37496 at 37499 (File No. S7–10–04) ("Regulation NMS Adopting Release") [sic].

[17] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[18] *See id.* at 534–535.

[19] *See id.* at 537.

[20] *See id.* at 539 (quoting Securities Exchange Act Commission at [sic] Release No. 59039 (December 2, 2008), 73 FR 74770 at 74782–74783 (December 9, 2008) (SR–NYSEArca–2006–21)).

The Exchange believes it is equitable and not unfairly discriminatory to continue to charge the Fee for Removing Liquidity, as also the Rebate to Add Liquidity, in order to incentivize Professionals and Customers to bring liquidity to the Exchange. Such liquidity, and in particular Customer liquidity, attracts other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange believes it is equitable and not unfairly discriminatory to make the proposed reduction in the Fee for Removing Liquidity because it will be applied uniformly across all similarly situated Participants, while promoting bringing liquidity to the Exchange. The Exchange also believes that it is equitable and not unfairly discriminatory to make sure that Customer and Professional are harmonized and treated the same, as proposed.

As noted, liquidity attracts other market participants. Customer and Professional liquidity benefits all market participants by providing more trading opportunities, which attract Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The proposed changes enhance the competitiveness of the Exchange by continuing to incentivize bringing flow to the Exchange.

The Exchange does not believe that the two housekeeping changes have any impact on the reasonable and equitable and not unfairly discriminatory nature of the proposal.

The Exchange desires to continue to incentivize members and member organizations, through the Exchange's rebate and proposed reduced fee structure, to select the Exchange as a venue for bringing liquidity and trading by offering competitive pricing. Such competitive, differentiated pricing exists today on other options exchanges. The Exchange's goal is creating and increasing incentives to attract orders to the Exchange that will, in turn, benefit all market participants through increased liquidity at the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe that its proposal to make changes to its Fee for Removing Liquidity where a Customer or Professional removes liquidity in SPY Options, as per proposed note 3, will impose any undue burden on competition, as discussed below.

The Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. Additionally, new competitors have entered the market and still others are reportedly entering the market shortly. These market forces ensure that the Exchange's fees and rebates remain competitive with the fee structures at other trading platforms. In that sense, the Exchange's proposal is actually pro-competitive because the Exchange is simply continuing its fees and rebates for Penny Pilot Options, and enhancing its fee structure in order to remain competitive in the current environment.

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In terms of intra-market competition, the Exchange notes that price differentiation among different market participants operating on the Exchange (*e.g.*, Customer and Professional as opposed to others) is reasonable. Customer and Professional activity, for example, enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Moreover, in this instance, the proposed changes to reduce the Fee for Removing Liquidity where Customer or Professional removes liquidity in SPY Options does not impose a burden on competition because the Exchange's execution and routing services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result.

Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Additionally, the changes proposed herein are pro-competitive to the extent that they continue to allow the Exchange to promote and maintain order executions.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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[21] *See, e.g.*, fee and rebate schedules of other options exchanges, including, but not limited to, NASDAQ BX, Inc. ("BX Options"), NASDAQ PHLX LLC ("Phlx"), and Chicago Board Options Exchange ("CBOE").

[22] 15 U.S.C. 78s(b)(3)(A)(ii).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–NASDAQ–2016–070 on the subject line.*

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–NASDAQ–2016–070.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–NASDAQ–2016–070* and should be submitted on or before June 16, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2016–12386 Filed 5–25–16; 8:45 am]

**BILLING CODE 8011–01–P**

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## DEPARTMENT OF STATE

**[Public Notice: 9586]**

### Culturally Significant Objects Imported for Exhibition Determinations: "Ed Ruscha and the Great American West" Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "Ed Ruscha and the Great American West," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Fine Arts Museums of San Francisco, de Young Museum, San Francisco, California, from on or about July 16, 2016, until on or about October 9, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: May 19, 2016.

**Mark Taplin,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2016–12617 Filed 5–25–16; 8:45 am]

**BILLING CODE 4710–05–P**

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## DEPARTMENT OF STATE

**[Public Notice: 9584]**

### Annual Certification of Shrimp-Harvesting Nations

**AGENCY:** Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

**ACTION:** Certification.

**SUMMARY:** On May 3, 2016, the Department of State certified that 14 shrimp-harvesting nations have a regulatory program comparable to that of the United States governing the incidental taking of the relevant species of sea turtles in the course of commercial shrimp harvesting and that the particular fishing environments of 26 shrimp-harvesting nations and one economy do not pose a threat of the incidental taking of covered sea turtles in the course of such harvesting.

**DATES:** This notice is effective on May 26, 2016.

**FOR FURTHER INFORMATION CONTACT:** Section 609 Program Manager, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, 2201 C Street NW., Washington, DC 20520–2758; telephone: (202) 647–3263; email: *DS2031@state.gov.*

**SUPPLEMENTARY INFORMATION:** Section 609 of Public Law 101–162 ("Sec. 609") prohibits imports of certain categories of shrimp unless the President certifies to the Congress by May 1, 1991, and annually thereafter, that either: (1) The harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States and has an incidental take rate comparable to that of the United States; or (2) the particular fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State ("the Department"). The Department's Revised Guidelines for the Implementation of Section 609 were published in the **Federal Register** on July 8, 1999, at 64 FR 36946.

On May 3, 2016, the Department certified 14 nations on the basis that their sea turtle protection programs are comparable to that of the United States: Colombia, Costa Rica, Ecuador, El Salvador, Gabon, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Nigeria, Pakistan, Panama, and Suriname. The Department also certified 26 shrimp-harvesting nations and one economy as having fishing environments that do not pose a danger to sea turtles. Sixteen nations have shrimping grounds only in cold waters where the risk of taking sea turtles is negligible: Argentina, Belgium, Canada, Chile, Denmark, Finland, Germany, Iceland, Ireland, the Netherlands, New Zealand, Norway, Russia, Sweden, the United Kingdom, and Uruguay. Ten nations and one economy only harvest shrimp using small boats with crews of less than five that use manual rather than mechanical means to retrieve nets or catch shrimp using other methods that do not threaten sea turtles. Use of such small-scale technology does not adversely affect sea turtles. The 10 nations and one economy are: The Bahamas, Belize, China, the Dominican Republic, Fiji, Hong Kong, Jamaica, Oman, Peru, Sri Lanka, and Venezuela.

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[23] 17 CFR 200.30–3(a)(12).

A completed DS–2031 Shrimp Exporter's/Importer's Declaration must accompany all shipments of shrimp or shrimp product into the United States. Only shrimp or products from shrimp harvested in the 40 certified nations and one economy listed above may be accompanied by a DS–2031 with Box 7(B) checked. All DS–2031 forms accompanying shrimp imports from uncertified nations must be originals with Box 7(A)(1), 7(A)(2), or 7(A)(4) checked, consistent with the form's instructions with regard to the method of production of the product and based on any relevant prior determinations by the Department of State, and signed by a responsible government official of the harvesting nation's competent domestic fisheries authority. The Department has not determined that any uncertified nation qualifies to export shrimp or products of shrimp harvested in a manner as described in 7(A)(3).

Shrimp and products of shrimp harvested with turtle excluder devices (TEDs) in an uncertified nation may, under specific circumstances, be eligible for importation into the United States under the DS–2031 Box 7(A)(2) provision for "shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States." Use of this provision requires that the Department determine in advance that the government of the harvesting nation has put in place adequate procedures to monitor the use of TEDs in the specific fishery in question and to ensure the accurate completion of the DS–2031 forms. At this time, the Department has determined that only shrimp and products of shrimp harvested in the Exmouth Gulf Prawn Fishery, the Northern Prawn Fishery, the Queensland East Coast Trawl Fishery, and the Torres Strait Prawn Fishery in Australia and shrimp or products of shrimp harvested in the French Guiana domestic trawl fishery are eligible for entry under this provision. Thus, the importation of TED-caught shrimp from any other uncertified nation will not be allowed. A responsible government official of Australia or France must sign in Block 8 of the DS–2031 form accompanying these imports into the United States.

In addition, the Department has determined that shrimp or products of shrimp harvested in the Spencer Gulf region in Australia and Mediterranean red shrimp (*Aristeus antennatus)* harvested in the Mediterranean Sea by Spain may be exported to the United States under the DS–2031 Box 7(A)(4) provision for "shrimp harvested in a manner or under circumstances determined by the Department of State not to pose a threat of the incidental taking of sea turtles." A responsible government official of Australia or Spain must sign in Block 8 of the DS–2031 form accompanying these imports into the United States.

The Department has communicated these certifications and determinations under Section 609 to the Office of International Trade of U.S. Customs and Border Protection.

Dated: May 19, 2016.

**David A. Balton,**

*Deputy Assistant Secretary of State for Oceans and Fisheries, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.*

[FR Doc. 2016–12544 Filed 5–25–16; 8:45 am]

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## SURFACE TRANSPORTATION BOARD

**[FR–4915–01–P; Docket No. FD 36033]**

### Reading Blue Mountain & Northern Railroad Company—Acquisition and Operation Exemption—Locust Valley Coal Company d/b/a Locust Valley Line

Reading Blue Mountain & Northern Railroad Company (RBMN), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Locust Valley Coal Company d/b/a Locust Valley Line (Locust Valley), and continue to operate, approximately 5.5 miles of rail line between milepost 0.0 at Laurel Jct., also known as Maria Jct., in Delano Township, and milepost 5.5 beyond Newton Jct., south of Mahanoy City, in Mahanoy Township, in Schuylkill County, Pa. (the Line). The Line is currently being operated by RBMN.

According to RBMN, Locust Valley acquired the 5.5-mile Line but never performed operations on it.[1] RBMN states that the Line (except for approximately one mile near Laurel Jct.) has been out of service for a number of years but has never been abandoned. RBMN also states that Locust Valley rehabilitated the Line and entered into an agreement with RBMN under which RBMN would operate and provide the freight common carrier obligations over the Line.[2]

Under the proposed transaction, Locust Valley will sell the Line to RBMN to allow RBMN to become owner and continue operating it. According to RBMN, the transaction will also allow Locust Valley to divest itself of an asset it no longer wishes to own or needs for its business purposes. RBMN certifies that the agreement does not include an interchange commitment.

RBMN states that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier, but that its projected annual revenues would exceed $5 million. Accordingly, RBMN is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. 49 CFR 1150.42(e).

In the notice, RBMN requests waiver of the 60-day advance labor notice requirement under 1150.42(e), asserting that: (1) No Locust Valley employees will be affected because there are no Locust Valley employees on the Line; and (2) no RBMN employees will be affected because RBMN will continue to provide the same service as it has since 2006. RBMN's waiver request will be addressed in a separate decision.

The parties propose to consummate the transaction no sooner than June 8, 2016, the effective date exemption (30 days after the verified notice of exemption was filed). The Board will establish in the decision on the waiver request the earliest date this transaction may be consummated.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than June 1, 2016 (at least seven days before the exemption becomes effective).

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[1] *See, Locust Valley Coal Co. d/b/a Locust Valley Line—Acquis. Exemption—Rail Lines in Schuylkill Cty., Pa.*, FD 34642 (STB served Jan. 21, 2005).

[2] *See, Reading Blue Mountain & N.R.R.—Operation Exemption—Locust Valley Line*, FD 34785 (STB served Dec. 29, 2005).

An original and ten copies of all pleadings, referring to Docket No. FD 36033, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Eric M. Hocky, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

According to RBMN, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: May 20, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Tia Delano,**

*Clearance Clerk.*

[FR Doc. 2016–12349 Filed 5–24–16; 8:45 am]

**BILLING CODE P**

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## TENNESSEE VALLEY AUTHORITY

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Tennessee Valley Authority.

**ACTION:** 60-Day notice of submission of information collection approval and request for comments.

**SUMMARY:** The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1).

**ADDRESSES:** Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Philip D. Propes, Tennessee Valley Authority, 1101 Market Street (MP 2C), Chattanooga, Tennessee 37402–2801; (423) 751–8593.

**DATES:** Comments should be sent to the Agency Clearance Officer no later than July 25, 2016.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Reauthorization.

*Title of Information Collection:* Section 26a Permit Application.

*Frequency of Use:* On occasion.

*Type of Affected Public:* Individuals or households, state or local governments, farms, businesses, or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.

*Small Businesses or Organizations Affected:* Yes.

*Federal Budget Functional Category Code:* 452.

*Estimated Number of Annual Responses:* 1,800.

*Estimated Total Annual Burden Hours:* 3,600.

*Estimated Average Burden Hours per Response:* 2.0.

*Need for and Use of Information:* TVA Land Management activities and Section 26a of the Tennessee Valley Authority Act of 1933, as amended, require TVA to collect information relevant to projects that will impact TVA land and land rights and review and approve plans for the construction, operation, and maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information is collected via paper forms and/or electronic submissions and is used to assess the impact of the proposed project on TVA land or land rights and statutory TVA programs to determine if the project can be approved. Rules for implementation of TVA's Section 26a responsibilities are published in 18 CFR part 1304.

**Philip D. Propes,**

*Director, Enterprise Information Security and Policy.*

[FR Doc. 2016–12401 Filed 5–25–16; 8:45 am]

**BILLING CODE 8120–08–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2015–0118]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt five individuals from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have "no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV." The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on October 22, 2015. The exemptions expire on October 22, 2017.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

#### II. Background

On September 21, 2015, FMCSA published a notice announcing receipt of applications from eight individuals requesting an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV in interstate commerce and requested comments from the public (80 FR 57036). The public comment period closed on October 21, 2015, and 13 comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to five individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria[1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

The advisory criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.*, drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of medical examiners misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner based on the physical qualification standards and medical best practices.

In reaching the decision to grant these exemption requests, the Agency considered the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The January 15, 2013 (78 FR 3069) **Federal Register** notice provides the current MEP recommendations which is the criteria the Agency uses to grant seizure exemptions.

Five of the eight applicants have been seizure-free over a range of 10 to 25 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each of these cases, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially. A summary of each applicant's seizure history was discussed in the September 21, 2015 **Federal Register** notice and will not be repeated in this notice.

## III. Discussion of Comments

Thirteen commenters responded to this notice, 11 of whom specifically expressed support for applicant Billy Ray Hunter and two in support of granting seizure exemptions in general.

## IV. Basis for Exemption Determination

The Agency has determined that five of the eight applicants should be granted an exemption. Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these five applicants from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption. A decision will be made on the other three applicants on a later date.

## V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and includes the following: (1) Each individual must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each individual must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each individual must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each individual must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Conclusion

Based upon its evaluation of the five exemption applications, FMCSA exempts the following drivers from the epilepsy/seizure standard in 49 CFR 391.41(b)(8), subject to the requirements cited above: Joshua Alan Abel (MD); James E. Blosser, Jr. (VA); Jeremy H. Fryburg (PA); Jonathan Robert Jones (WI); and Anthony Edward Martens (SD).

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[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

In accordance with 49 U.S.C. 31315(b)(1), each exemption is valid for 2 years, unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The individual fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315. If the exemption is still effective at the end of the 2-year period, the individual may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 19, 2016.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2016–12436 Filed 5–25–16; 8:45 am]

BILLING CODE 4910–EX–P

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2016 0056]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel REEL OBSESSION; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before June 27, 2016.

**ADDRESSES:** Comments should refer to docket number MARAD–2016–0056. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel REEL OBSESSION is:

Intended Commercial Use of Vessel: "One day scenic cruise charters and fishing charters"

Geographic Region: "California"

The complete application is given in DOT docket MARAD–2016–0056 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

#### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: May 19, 2016.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2016–12343 Filed 5–25–16; 8:45 am]

BILLING CODE 4910–81–P

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

**[OCC Charter Number 700528]**

### Home Federal Savings and Loan Association of Collinsville, Collinsville, Illinois; Approval of Conversion Application

Notice is hereby given that on May 12, 2016, the Office of the Comptroller of the Currency (OCC) approved the application of Home Federal Savings and Loan Association of Collinsville, Collinsville, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection on the OCC Web site at the FOIA Electronic Reading Room *https://foia-pal.occ.gov/palMain.aspx.* If you have any questions, please call OCC Licensing Activities at (202) 649–6260.

Dated: May 17, 2016.

By the Office of the Comptroller of the Currency.

**Stephen A. Lybarger,**

*Deputy Comptroller for Licensing.*

[FR Doc. 2016–12489 Filed 5–25–16; 8:45 am]

BILLING CODE 4810–33–P

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## DEPARTMENT OF THE TREASURY

### Proposed Collections; Comment Requests

**AGENCY:** Departmental Offices; Department of the Treasury.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the revisions of the Treasury International Capital (TIC) Forms BC, BL–1, BL–2, BQ–1, BQ–2, and BQ–3 (called the "TIC B forms").

**DATES:** Written comments should be received on or before July 25, 2016 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*comments2TIC@treasury.gov*), fax (202–622–2009) or telephone (202–622–1276).

**FOR FURTHER INFORMATION CONTACT:** Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx.* Requests for additional information should be directed to Mr. Wolkow.

**SUPPLEMENTARY INFORMATION:**

*Titles:* Treasury International Capital (TIC) Form BC "Monthly Report of U.S. Dollar Claims of Financial Institutions on Foreign Residents;" TIC BL–1 "Monthly Report of U.S. Dollar Liabilities of Financial Institutions to Foreign Residents;" TIC BL–2 "Monthly Report of Customers' U.S. Dollar Liabilities to Foreign Residents;" TIC BQ–1 "Quarterly Report of Customers' U.S. Dollar Claims on Foreign Residents;" TIC BQ–2 "Part 1: Quarterly Report of Foreign Currency Liabilities and Claims of Financial Institutions and of their Domestic Customers' Foreign Currency Claims with Foreign Residents" and "Part 2: The Report of Customers' Foreign Currency Liabilities to Foreign Residents;" and TIC BQ–3 "Quarterly Report of Maturities of Selected Liabilities and Claims of Financial Institutions with Foreign Residents."

*OMB Numbers:* 1505–0017 (TIC BC), 1505–0019 (TIC BL–1), 1505–0018 (TIC BL–2), 1505–0016 (TIC BQ–1), 1505–0020 (TIC BQ–2), and 1505–0189 (TIC BQ–3).

*Abstract:* Forms BC, BL–1, BL–2, BQ–1, BQ–2, BQ–3 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and are designed to collect timely information on international portfolio capital movements. These forms are filed by all U.S.- resident financial institutions. On the monthly forms, these organizations report their own claims on (BC), their own liabilities to (BL–1), and their U.S. customers' liabilities to (BL–2) foreign residents, denominated in U.S. dollars. On the quarterly forms, these organizations report their U.S.-resident customers' U.S. dollar claims on foreign residents (BQ–1), and their own and their domestic customers' claims and liabilities with foreign residents, where all claims and liabilities are denominated in foreign currencies (BQ–2). On the quarterly BQ–3 form, these organizations report the remaining maturities of all their own U.S. dollar and foreign currency liabilities and claims (excluding securities) with foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

*Current Actions:* No changes to the Forms are proposed. There is one change in the instructions for all TIC B Forms.

*The following changes apply to all TIC B forms.*

Beginning with the monthly TIC B reports as of September 30, 2016 and the quarterly TIC B reports as of September 30, 2016, the "Who Must Report" section of the instructions is revised to list out separately Intermediate Holding Companies (IHCs), as defined by Regulation YY, 12 CFR 252, and to clarify that IHCs should follow the same consolidation rules that are applicable to Bank Holding Companies (BHCs), Financial Holding Companies (FHCs), and Savings and Loan Holding Companies.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Forms:* BC, BL–1, BL–2, BQ–1, BQ–2, and BQ–3.

*Estimated Number of Respondents:* BC, 385; BL–1, 378; BL–2, 103; BQ–1, 100; BQ–2, 199 and BQ–3, 154.

*Estimated Average Time per Respondent per Filing:* BC, 9.9 hours; BL–1, 7.1 hours; BL–2, 8.25 hours; BQ–1, 3.1 hours; BQ–2, 6.6 hours; and BQ–3, 4.0 hours. The average time varies, and is estimated to be generally twice as many hours for major data reporters as for other reporters.

*Estimated Total Annual Burden Hours:* BC, 45,738 hours for 12 reports per year; BL–1, 32,206 hours for 12 reports per year; BL–2, 10,197 hours for 12 reports per year; BQ–1, 240 hours for 4 reports per year, BQ–2, 5,254 hours for 4 reports per year; and BQ–3, 2,464 hours for 4 reports per year.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Forms BC, BL–1, BL–2, BQ–1, BQ–2, and BQ–3 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

**Dwight Wolkow,**

*Administrator, International Portfolio Investment Data Systems.*

[FR Doc. 2016–12272 Filed 5–25–16; 8:45 am]

**BILLING CODE 4810–25–P**

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